

# **SESSION LAWS**

**OF**

## **HAWAII**

**PASSED BY THE**

**NINETEENTH STATE LEGISLATURE**

**STATE OF HAWAII**

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## **REGULAR SESSION**

### **1998**

Convened on Wednesday, January 21, 1998  
and  
Adjourned sine die on Thursday, May 14, 1998

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## PREFACE

This volume contains all of the laws enacted by the Hawaii State Legislature during the Regular Session of 1998. The text of the laws is printed in full except for laws repealing existing statutes. With the exception of certain obvious typographical errors which have been corrected, the text of the laws as enacted is followed.

As authorized by Section 23G-16.5, Hawaii Revised Statutes, statutory material that is being repealed is bracketed, and new material is indicated by underscoring. However, the text is edited to omit the bracketed material for HRS sections being repealed in their entirety, and to omit the underscoring for new HRS sections.

Explanatory notes appear at the end of the corresponding laws. The notes clarify editorial changes and inconsistencies in text.

Wendell K. Kimura  
Revisor of Statutes

Honolulu, Hawaii  
July 22, 1998

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**Session Laws of Hawaii  
Passed By The  
Nineteenth State Legislature  
Regular Session  
1998**

**ACT 1**

H.B. NO. 2352

A Bill for an Act Making Appropriations to Provide for the Expenses of the Legislature, the Legislative Auditor, the Legislative Reference Bureau, and the Ombudsman.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$5,005,794, or so much thereof as may be necessary, for defraying any and all session and nonsession expenses of the Senate up to and including June 30, 1999, including the 1998 regular session, Nineteenth Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1998 and 1999 regular sessions.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$7,254,882, or so much thereof as may be necessary, for defraying any and all session and nonsession expenses of the House of Representatives up to and including June 30, 1999, including the 1998 regular session, Nineteenth Legislature of the State of Hawaii, and pre-session expenses and the expenses of any committee or committees established during the interim between the 1998 and 1999 regular sessions.

SECTION 3. Payment of expenses of the Senate during the interim between the 1998 and 1999 regular sessions shall be made only with the approval of the President of the Senate, and payment of expenses of the House of Representatives during the interim between the 1998 and 1999 sessions shall be made only with the approval of the Speaker of the House of Representatives.

SECTION 4. Before January 20, 1999, the Senate and the House of Representatives shall each have their accounts audited and a full report of the respective audits shall be presented to the Senate and to the House of Representatives convening on January 20, 1999.

SECTION 5. The expenses of any member of the Legislature while traveling abroad on official business of the Legislature shall not be limited by the provisions

## ACT 1

of section 78-15, Hawaii Revised Statutes, or by any other general statute. Until otherwise prescribed by law, the expenses of such member shall be \$130 a day as authorized by the President of the Senate and the Speaker of the House of Representatives, respectively.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,830,796, or so much thereof as may be necessary, to the office of the legislative auditor for the following expenses:

- (1) The sum of \$2,019,850, for defraying the expenses of the office of the legislative auditor during fiscal year 1998-1999;
- (2) The sum of \$660,946, for defraying the expenses of the office of the state ethics commission during fiscal year 1998-1999; and
- (3) The sum of \$150,000, during fiscal year 1998-1999 for:
  - (A) Performing special studies;
  - (B) Improving capabilities for planning, programming, and budgeting;
  - (C) Fulfilling other special requests made of the legislative auditor by the Legislature or jointly by the President of the Senate and the Speaker of the House of Representatives;
  - (D) Legislative studies and contractual services for those studies; and
  - (E) Such other purposes as may be determined by the joint action of the President of the Senate and the Speaker of the House of Representatives.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,229,349, or so much thereof as may be necessary, to the legislative reference bureau, for defraying the expenses of the legislative reference bureau during fiscal year 1998-1999, including equipment relating to computer systems programming and operations.

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$728,892, or so much thereof as may be necessary, to the office of the ombudsman for defraying the expenses of the office during fiscal year 1998-1999.

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the following sums, or so much thereof as may be necessary, for defraying the expenses of the legislative information system:

- (1) \$600,000 to the Senate; and
- (2) \$600,000 to the House of Representatives.

This appropriation shall be used to pay for hardware, software, consultant, installation, material, supply, and other related costs associated with the legislative information system that have been or will be incurred. This appropriation shall take effect upon the approval of this Act and shall not lapse until June 30, 1999.

SECTION 10. Pursuant to section 89C-5(c), Hawaii Revised Statutes, approval is hereby given to the auditor, the director of the legislative reference bureau, and the ombudsman to adjust the salaries and other cost items for their employees in accordance with chapter 89C. Approval for such adjustments shall be effective retroactive to fiscal year 1996-1997. The auditor, the director of the legislative reference bureau, and the ombudsman may use the funds appropriated to them by this Act, together with such funds as they may be able to derive through savings from Act 1, Session Laws of Hawaii 1997, for the purpose of implementing these adjustments.



SECTION 11. As of the close of business on June 30, 1999, the unexpended or unencumbered balance of any appropriation made by this Act shall lapse into the general fund.

SECTION 12. Each section of this Act is declared to be severable from the remainder of this Act.

SECTION 13. This Act shall take effect upon its approval.

(Approved February 6, 1998.)

## ACT 2

S.B. NO. 1285

A Bill for an Act Relating to Publication of Notices by Government Agencies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Public notice is the life blood of citizen involvement with government. Numerous state laws require notice by newspaper publication for actions of government so that the public may monitor, interact, and get involved. The current laws do not recognize that there are alternative print media available other than statewide newspapers of general circulation, which are able to provide public notice to a wide audience.

The State is constantly examining ways to develop more efficient and cost-effective means of operation. In addition, government watch dog groups have asked for more uniformity and consistency in the method and placement of public notices. Developing a more streamlined, consistent, and cost-effective means of providing public notice is clearly in the public interest.

Furthermore, when government agencies engage in rulemaking, present law requires generally that a summary or a synopsis of the proposed new rule, rule change, or rule to be repealed be provided in a notice to the public. The legislature finds that by requiring government agencies to provide general public notice that new rules or rule changes are proposed, or that rules are proposed to be repealed and to notify the public of the time and place where the actual proposed rules or rule changes can be reviewed or obtained, comports with the desire to involve the public in agency rulemaking, but at a more reasonable cost to government agencies, and, ultimately, the citizens of this State.

The purposes of this Act are to provide more consistent and better alternatives to government agencies in giving public notice with the beneficial side benefit of increased competition among the providers of publication notice, as well as to clarify the type of notice required for government agency rulemaking in order to provide government agencies the opportunity to reduce costs of public notice while at the same time keeping the public informed.

SECTION 2. Chapter 1, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§1- Publication of notice.** (a) Whenever a government agency is required to give public notice or to publish notice, the notice shall be given by advertisement as follows:

(1) For statewide publication:

(A) In a daily or weekly publication of statewide circulation; or

## ACT 2

(B) By publication in separate daily or weekly publications whose combined circulation is statewide.

(2) For county-wide publication, by publication in a daily or weekly publication in the affected county.

Additional supplemental notice may also be given through Hawaii FYI, the State's interactive computer system.

(b) For purposes of this section, the comptroller shall determine a consistent publication procedure to enable the public to go to one source of publication for published public notice on each island.

(c) Whenever a public notice is published in a newspaper or other publication described in subsection (a), proof of the publication shall be the affidavit of the printer, publisher, principal clerk, or business manager of the newspaper or other publication or of the designated agent of the group that published the notice.

(d) This section shall not apply to notices required by chapters 103D and 103F.

(e) For purposes of this section, "government agency" means each department, board, commission, or officer of the State or any of its political subdivisions."

SECTION 3. Section 11-41, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Reasonable notices of the sitting of the boards shall be given [by publication in newspapers of general circulation] in their respective districts or counties."

SECTION 4. Section 11-65, Hawaii Revised Statutes, is amended to read as follows:

**"§11-65 Determination of party disqualification; notice of disqualification.** (a) Not later than 4:30 p.m. on the one hundred twentieth day after a general election, the chief election officer shall determine which parties were qualified to participate in the last general election, but which have become disqualified to participate in the forthcoming elections. Notice of intention to disqualify shall be served by certified or registered mail on the chairperson of the state central committee or in the absence of the chairperson, any officer of the central committee of the party, as shown by the records of the chief election officer. In addition, public notice of intention to disqualify shall also be given [by publication in a newspaper of general circulation].

(b) If an officer of the party whose name is on file with the chief election officer desires a hearing on the notice of intention to disqualify, the officer of the party shall, not later than 4:30 p.m. on the tenth day after service by mail or not later than 4:30 p.m. on the tenth day after the last day upon which the public notice is [published] given in any county, whichever is later, file an affidavit with the chief election officer setting forth facts showing the reasons why the party should not be disqualified. The chief election officer shall call a hearing not later than twenty days following receipt of the affidavit. The chief election officer shall notify by certified or registered mail the officer of the party who filed the affidavit of the date, time, and place of the hearing. In addition, public notice of the hearing shall be [published in a newspaper of general circulation] given not later than five days prior to the day of the hearing. The chief election officer shall render the chief election officer's decision not later than 4:30 p.m. on the seventh day following the hearing. If the party does not file the affidavit within the time specified, the notice of intention to disqualify shall constitute final disqualification. A party thus disqualified shall have the right to requalify as a new party by following the procedures of section 11-62."

SECTION 5. Section 11-92.3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In the event the chief election officer or the county clerk in a county election determines that the number of candidates or issues on the ballot in a special, special primary, or special general election does not require the full number of established precincts, [such] the precincts may be consolidated for the purposes of the special, special primary, or special general election into a small number of special, special primary, or special general election precincts.

A special, special primary, or special general election precinct shall be considered the same as an established precinct for all purposes, including precinct official requirements provided in section 11-71. Not later than 4:30 p.m. on the tenth day prior to the special, special primary, or special general election, the chief election officer or the county clerk shall give public notice, [in a newspaper of general circulation] in the area in which the special, special primary, or special general election is to be held, of the special, special primary, or special general election precincts and their polling places. Notices of the consolidation also shall be posted on election day at the established precinct polling places, giving the location of the special, special primary, or special general election precinct polling place.”

SECTION 6. Section 11-227, Hawaii Revised Statutes, is amended to read as follows:

“**§11-227 Public notices.** (a) Forty-five days before each primary, special primary, special, or general election, and at such other times as may be appropriate, the commission may [publish] give public notices [in the newspaper as well as other media] to communicate to the public the following:

- (1) A candidate who has signed an affidavit pursuant to section 11-208 to abide by the expenditure limits for the candidate’s respective office as imposed by this subpart;
- (2) A candidate who has filed an affidavit to abide by spending limits, but who has exceeded the expenditure limits pursuant to section 11-209;
- (3) A candidate who has failed to file a report required under this subpart, or who has failed to correct a deficient report after notice of [such] the deficiency or failure to file has been mailed to the candidate pursuant to section 11-193(a)(5); and
- (4) Any flagrant violation of any other provision of this subpart.

(b) In [publishing a] giving public notice under this section, the commission shall endeavor to bring fair public light to the incident or violation involved.”

SECTION 7. Section 14-22, Hawaii Revised Statutes, is amended to read as follows:

“**§14-22 Contested nominations of presidential electors and alternates.** If more than one certificate of choice and selection of presidential electors and alternate electors of the same political party or group is filed with the chief election officer, as chairperson of the contested presidential electors’ committee hereby constituted, the chief election officer shall notify the state comptroller and attorney general, who are the remaining members of the committee, of the date, time, and place of the hearing to be held for the purposes of making a determination of which set of electors and alternative electors were lawfully chosen and selected by the political party or group. Notice of the hearing shall be given to the chairperson of the state central committee of each political party and the chairperson of each party or group qualified under section 11-113, contestants for the positions of electors and alternate electors by written notice, and to all other interested parties by [publication]

## ACT 2

public notice at least once [in a newspaper of general circulation]. A determination shall be made by the committee by majority vote not later than 4:30 p.m. on October 30 of the same year and the determination shall be final. Notice of the results shall be given to the nominees duly determined to have been chosen. The committee shall have all the powers enumerated in section 11-43.”

SECTION 8. Section 25-2, Hawaii Revised Statutes, is amended to read as follows:

“**§25-2 Duties.** (a) Legislative reapportionment. The commission shall reapportion the members of each house of the legislature on the basis, method, and criteria prescribed by the Constitution of the United States and Article IV of the Hawaii Constitution. Pursuant thereto, the commission shall conduct public hearings and consult with the apportionment advisory council of each basic island unit. Not more than one hundred days from the date on which all members are certified, the commission shall cause to be [published in a newspaper of general circulation] given in each basic island unit, public notice of a legislative reapportionment plan prepared and proposed by the commission. At least one public hearing on the proposed reapportionment plan shall be held in each basic island unit after initial [publication] public notice of the plan. At least twenty days’ notice shall be given of [such] the public hearing. The notice shall include a statement of the substance of the proposed reapportionment plan, and of the date, time, and place where interested persons may be heard thereon. The notice shall be [published] given at least once [in a newspaper of general circulation] in the basic island unit where the hearing will be held. All interested persons shall be afforded an opportunity to submit data, views, or arguments, orally or in writing, for consideration by the commission. After the last of the public hearings, but in no event later than one hundred fifty days from the date on which all members of the commission are certified, the commission shall determine whether or not the plan is in need of correction or modification, make the correction or modification, if any, and file with the chief election officer, a final legislative reapportionment plan. Within fourteen days after the filing of the final reapportionment plan, the chief election officer shall cause [to be published in a newspaper of general circulation in the State,] public notice to be given of the final legislative reapportionment plan which, upon [publication,] public notice, shall become effective as of the date of filing and govern the election of members of the next five succeeding legislatures.

(b) Congressional reapportionment. At [such] times [as] that may be required by the Constitution and [as] that may be required by law of the United States, the commission shall redraw congressional district lines for the districts from which the members of the United States House of Representatives allocated to this State shall be elected. The commission shall first determine the total number of members to which the State is entitled and shall then apportion those members among single member districts so that the average number of persons in the total population counted in the last preceding United States census per member in each district shall be as nearly equal as practicable. In effecting the reapportionment and districting, the commission shall be guided by the following criteria:

- (1) No district shall be drawn so as to unduly favor a person or political party;
- (2) Except in the case of districts encompassing more than one island, districts shall be contiguous;
- (3) Insofar as practicable, districts shall be compact;
- (4) Where possible, district lines shall follow permanent and easily recognized features such as streets, streams, and clear geographical features, and when practicable, shall coincide with census tract boundaries;

- (5) Where practicable, state legislative districts shall be wholly included within congressional districts; and
- (6) Where practicable, submergence of an area in a larger district wherein substantially different socio-economic interests predominate shall be avoided.

Not more than one hundred days from the date on which all members are certified, the commission shall cause [to be published in a newspaper of general circulation in the State,] public notice to be given of a congressional reapportionment plan prepared and proposed by the commission. The commission shall conduct public hearings on the proposed plan in the manner prescribed under subsection (a). At least one public hearing shall be held in each basic island unit after initial [publication] public notice of the plan. After the last of the public hearings, but in no event later than one hundred fifty days from the date on which all members of the commission are certified, the commission shall determine whether or not the plan is in need of correction or modification, make the correction or modification, if any, and file with the chief election officer, a final congressional reapportionment plan. Within fourteen days after filing of the final reapportionment plan, the chief election officer shall cause [to be published in a newspaper of general circulation in the State,] public notice to be given of the final congressional reapportionment plan which, upon [publication,] public notice, shall become effective as of the date of filing and govern the election of members of the United States House of Representatives allocated to this State for the next five succeeding congresses.”

SECTION 9. Section 37-94, Hawaii Revised Statutes, is amended to read as follows:

**“§37-94 Director of finance; duties.** A preliminary estimate of the state growth and expenditure ceiling shall be determined by the director of finance as of August 1 of each year. The final estimate of the state growth and expenditure ceiling to be used by the legislature to make appropriations from the general fund in each year shall be determined by the director of finance as of November 1 of each year. Upon the determination of both the preliminary estimate and the final estimate of the state growth and expenditure ceiling, the director shall inform the governor, chief justice, and the legislature, and shall give statewide public notice of [such] the state growth and expenditure ceiling and the maximum dollar amount that may be appropriated from the general fund [by publication] twice in successive weeks [in a newspaper of general circulation in the State].”

SECTION 10. Section 38-3, Hawaii Revised Statutes, is amended to read as follows:

**“§38-3 Securities for protection of funds deposited.** For the protection of funds deposited by the director under this chapter, the following securities shall be deposited with the director, or with banks in the continental United States, or with financial institutions with trust powers authorized to do business in the State, as the director may select, to be held therein for safekeeping subject to the order of the director, any other provisions of the laws of the State to the contrary notwithstanding:

- (1) Bonds, notes, debentures, or other evidences of indebtedness of the State or of any county of the State, for which the payment of the interest and principal is a direct obligation of the State or the county, as the case may be, in an amount at least equal in their par value to the amount of the deposit with the depository;

- (2) Bonds, notes, debentures, or other evidences of indebtedness of agencies of the State or of agencies of any county of the State, for which the payment of the interest and principal is from the revenues of the issuing agency, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository;
- (3) Bonds, notes, debentures, or other evidences of indebtedness of any improvement district or frontage improvement of any county of the State, for which the payment of the interest and principal is from the assessments made for the improvement, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository;
- (4) Bonds, notes, bills, or certificates of indebtedness of the United States or of agencies of the United States, for which the payment of the interest and principal is a direct obligation of the United States, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository;
- (5) Bonds, notes, federal home loan bank letters of credit, or debentures of agencies of the United States, in an amount at least equal to ninety-five per cent of their market value, but not to exceed their par value, to the amount of the deposit with the depository;
- (6) Warrants or warrant notes of the State in an amount at least equal in their face value to the amount of the deposit with the depository;
- (7) Bonds, notes, debentures, or other evidences of indebtedness of any other state of the United States, for which the payment of the interest and principal is a direct obligation of [such] that state, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository;
- (8) Bonds, notes, debentures, or other evidences of indebtedness of any city or of any county in the continental United States, for which the payment of the interest and principal is a direct obligation of the city or county, as the case may be, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
- (9) Other assets on the books of the depository that are eligible to secure advances from the Federal Reserve Banks under regulations of the Federal Reserve Board, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; provided that not more than fifty per cent of the deposits held by a depository may be secured by assets of this class.

Security shall not be required for that portion of any deposit that is insured under any law of the United States.

Securities deposited under this section may be withdrawn from time to time; provided that the required amount of securities shall at all times be kept on deposit. The director at any time may require additional securities to be deposited under this section.

In the event that the depository shall fail to pay [such] the deposits, or any part thereof, upon presentation of a check or a certificate of deposit, then the director shall forthwith convert the securities deposited under this section into money for and on behalf of the State; provided that no [such] securities shall be sold except at public auction, after giving at least ten days' public notice [by publication in a newspaper of general circulation] thereof in the State."

SECTION 11. Section 39-5, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Bonds offered at competitive sale, without further action, shall bear interest at the rate or rates specified by the successful bidder or varying rates determined from time to time in the manner specified by the successful bidder with the consent of the director of finance. The notice of sale required by this section shall be [published] given at least once and at least five days prior to the date of [such] the sale [in a newspaper published and of general circulation] in the State and in a financial newspaper or newspapers published in any of the cities of New York, Chicago, or San Francisco, and shall be in [such] a form and contain [such] terms and conditions [as] that the director of finance shall determine. The notice of sale shall comply with the requirements of this section if it merely advises prospective purchasers of the proposed sale and makes reference to a detailed notice of sale which is available to prospective purchasers and which sets forth the specific details of the bonds and terms and conditions upon which the bonds are to be offered. The notice of sale [published] and any detailed notice of sale may omit the date and time of sale, in which event the date and time shall be either [published] given in the same [newspapers] manner and medium in which the original notice of sale [has been published] was given or transmitted via electronic communication systems deemed proper by the director of finance which are generally available to the financial community, in either case at least twenty-four hours prior to the time fixed for the sale.”

SECTION 12. Section 39-55, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Revenue bonds offered at competitive sale, without further action, shall bear interest at the rate or rates specified by the successful bidder or the varying rates determined from time to time in the manner specified by the successful bidder with the consent of the department head or the governing body. The notice of sale required by this section shall be [published] given at least once and at least five days prior to the date of [such] the sale [in a newspaper published and of general circulation] in the State and in a financial newspaper or newspapers published in any of the cities of New York, Chicago, or San Francisco, and shall be in [such] a form and contain [such] terms and conditions [as] that the department head or the governing body shall determine. The notice of sale shall comply with the requirements of this section if it merely advises prospective purchasers of the proposed sale and makes reference to a detailed notice of sale which is available to prospective purchasers and which sets forth the specific details of the revenue bonds and terms and conditions upon which any revenue bonds are to be offered. The notice of sale [published] and any detailed notice of sale may omit the date and time of sale, in which event the date and time shall be either [published] given in the same [newspapers] manner and medium in which the original notice of sale [has been published] was given or transmitted via electronic communication systems deemed proper by the department head or the governing body, which are generally available to the financial community, in either case at least twenty-four hours prior to the time fixed for the sale.”

SECTION 13. Section 40-65, Hawaii Revised Statutes, is amended to read as follows:

“**§40-65 Notice of payment of warrant notes.** When there are sufficient moneys in the treasury to pay warrant notes, the director of finance shall give public notice for one week [in one or more daily newspapers in Honolulu.] stating therein that the warrant notes whose numbers appear in the [advertisement] notice are payable, and that interest shall cease upon all the called warrant notes ten days after the first [publication of the] notice.”

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SECTION 14. Section 46-145, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) If a county seeks to terminate impact fee requirements, all unexpended or unencumbered funds shall be refunded as provided in subsection (a) and the county shall [place a] give public notice of termination and availability of refunds [in a newspaper of general circulation] at least two times. All funds available for refund shall be retained for a period of one year at the end of which any remaining funds may be transferred to the county’s general fund and expended for any public purpose as determined by the county council.”

SECTION 15. Section 47-8, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) Subject to any limitation imposed by the governing body by the ordinance or resolution authorizing the bonds, the sale of the bonds by the director of finance at competitive sale shall be at [such] a price or prices and upon [such] terms and conditions, and the bonds shall bear interest at [such] a rate or rates or [such] varying rates determined from time to time in the manner, as specified by the successful bidder, and the bonds shall be sold in accordance with this subsection. The bonds offered at competitive sale shall be sold only after [published] public notice of sale advising prospective purchasers of the proposed sale. The bonds offered at competitive sale may be sold to the bidder offering to purchase the bonds at the lowest interest cost, the interest cost, for the purpose of this subsection, being determined on one of the following [basis] bases as selected by the director of finance:

- (1) The figure obtained by adding together the amounts of interest payable on the bonds from their date to their respective maturity dates at the rate or rates specified by the bidder and deducting from the sum obtained the amount of any premium offered by the bidder;
- (2) Where the interest on the bonds is payable annually, the annual interest rate (compounded annually), or, where the interest on the bonds is payable semiannually, the rate obtained by doubling the semiannual interest rate (compounded semiannually), necessary to discount the principal and interest payments on the bonds from the dates of payment thereof to the date of the bonds and to the price bid (the price bid for the purpose of this paragraph shall not include the amount of interest accrued on the bonds from their date to the date of delivery and payment); or
- (3) Where the interest on the bonds is payable other than annually or semiannually or will vary from time to time, upon [such] a basis [as,] that, in the opinion of the director of finance, shall result in the lowest cost to the county;

provided that in any case the right shall be reserved to reject any or all bids and waive any irregularity or informality in any bid.

(d) Bonds offered at competitive sale, without further action of the governing body, shall bear interest at the rate or rates specified by the successful bidder or varying rate or rates determined from time to time in the manner specified by the successful bidder with the consent of the director of finance. The notice of sale required by this section shall be [published] given at least once and at least five days prior to the date of the sale [in a newspaper circulating] in the county and in a financial newspaper or newspapers published in any of the cities of New York, Chicago, or San Francisco, and shall be in [such] a form and contain [such] terms and conditions [as] that the director of finance shall determine. The notice of sale shall comply with the requirements of this section if it merely advises prospective purchasers of the proposed sale and makes reference to a detailed notice of sale



which is available to the prospective purchasers and which sets forth the specific details of the bonds and terms and conditions upon which [such] the bonds are to be offered. The notice of sale [published] and any detailed notice of sale may omit the date and time of sale, in which event the date and time shall be either [published] given in the same [newspapers] manner and medium in which the original notice of sale [has been published] was given, or transmitted via electronic communication systems deemed proper by the director of finance which is generally available to the financial community, in either case at least forty-eight hours prior to the time fixed for the sale.”

SECTION 16. Section 47C-6, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§47C-6]]~~ **Public hearing; declaratory judgment.** In the event the certification by the director of finance of any summary and supporting schedules filed with the council of the county shall set forth therein that the corporation counsel or the chairperson of the finance committee has disagreed as to any item therein, the council at its election may hold a public hearing on any factual matters as to which there is disagreement. [Such] The public hearing shall be held at a regular meeting of the council. [Notice] Public notice of [such] the public hearing shall be [published] given at least once at least five days prior to the date set for [such meeting, in a newspaper of general circulation] the hearing in the county. The council after [such] the public hearing may make findings as to all the factual items about which there is disagreement, which findings shall be conclusive. Upon [any such] the findings having been made, the director of finance shall revise the summary and supporting schedules to reflect [such] the findings, and shall certify the revised summary and supporting schedules to the council.

In the event the certification by the director of finance of any summary and supporting schedules filed with the council of the county shall set forth therein that the corporation counsel has disagreed as to any legal finding or determination therein, the council at its election may direct the corporation counsel to file a declaratory judgment action in the name of the county against the director of finance in the circuit court having jurisdiction over the county. The circuit court having jurisdiction over the county is hereby vested with jurisdiction over [such] the declaratory judgment action. The findings and determinations by the circuit court in [such] the action shall be conclusive. Upon [any such] the findings and determinations having been made by the circuit court, the director of finance shall revise the summary and supporting schedules to reflect [such] the findings, and shall certify the revised summary and supporting schedules to the council.”

SECTION 17. Section 49-5, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) The sale of the revenue bonds by the governing body at competitive sale shall be at [such] a price or prices and upon [such] terms and conditions, and the revenue bonds shall bear interest at [such] a rate or rates or [such] varying rates determined from time to time in the manner, as specified by the successful bidders, in which event the revenue bonds shall be sold in accordance with this subsection. The revenue bonds offered at competitive sale shall be sold only after [published] public notice of sale advising prospective purchasers of the proposed sale. The revenue bonds offered at competitive sale may be sold to the bidder offering to purchase the revenue bonds at the lowest interest cost, [such] the interest cost, for the purpose of this subsection, being determined on one of the following bases as selected by the governing body:

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- (1) The figure obtained by adding together the amounts of interest payable on the revenue bonds from their dates to their respective maturity dates at the rate or rates specified by the bidder and deducting from the sum obtained the amount of any premium offered by the bidder;
- (2) Where the interest on the revenue bonds is payable annually, the annual interest rate (compounded annually), or, where the interest on the bonds is payable semiannually, the rate obtained by doubling the semiannual interest rate (compounded semiannually), necessary to discount the principal and interest payments on the revenue bonds from the dates of payment thereof to the date of the revenue bonds and to the price bid (the price bid for the purpose of this paragraph shall not include the amount of interest accrued on the revenue bonds from their date to the date of delivery and payment); or
- (3) Where the interest on the revenue bonds is payable other than annually or semiannually or will vary from time to time upon [such] a basis [as,] that, in the opinion of the director of finance, shall result in the lowest cost to the county;

provided that in any case the right shall be reserved to reject any or all bids and waive any irregularity or informality in any bid.

(d) Revenue bonds offered at competitive sale, without further action of the governing body, shall bear interest at the rate or rates specified by the successful bidder or [such] at varying rates determined from time to time in the manner specified by the successful bidder with the consent of the governing body. The notice of sale required by this section shall be [published] given at least once and at least five days prior to the date of the sale in a newspaper or newspapers published in any of the cities of New York, Chicago, or San Francisco, and shall be in [such] a form and contain [such] terms and conditions [as] that the governing body shall determine. The notice of sale shall comply with the requirements of this section if it merely advises prospective purchasers of the proposed sale and makes reference to a detailed notice of sale which is available to the prospective purchasers and which sets forth the specific details of the revenue bonds and terms and conditions upon which any revenue bonds are to be offered. The notice of sale [published] and any detailed notice of sale may omit the date and time of sale, in which event [such] the date and time shall be either [published] given in the same manner and medium as the original notice or transmitted via electronic communication systems deemed proper by the governing body which is generally available to the financial community, in either case at least forty-eight hours prior to the time fixed for [such] the sale.”

SECTION 18. Section 52D-10, Hawaii Revised Statutes, is amended to read as follows:

“**[§52D-10] Disposition of found, stolen, or unclaimed property.** Each chief of police, on the first Monday in January and the first Monday in July, shall give the county director of finance a sworn statement listing all moneys (except money found), goods, wares, and merchandise in the chief’s custody which have been unclaimed for a period of not less than ninety days. At least annually, the chief of police shall give public notice to the public, once a week for four successive weeks [in a newspaper of general circulation] in the county (and may also give notice by posting in conspicuous places), that, unless claimed by an owner with satisfactory proof of ownership, the goods, wares, and merchandise listed will be sold at public auction to the highest bidder. On the day and at the place specified in the notice, all property still unclaimed, except money and found property, shall be sold by auction by or under the direction of the chief of police. Any unclaimed

goods, wares, or merchandise of a perishable nature or which are unreasonably expensive to keep or safeguard, may be sold at public auction or by any commercially reasonable manner, at [such] a time and after [such] notice [as] that the chief of police deems proper and reasonable under the circumstances. The chief of police, immediately after the sale of any property in accordance with this section, shall pay to the director of finance of the county all moneys remaining unclaimed and all moneys received upon the sale.”

SECTION 19. Section 53-1, Hawaii Revised Statutes, is amended to read as follows:

**“§53-1 Definitions.** The following terms wherever used or referred to in part I, part II and, unless specifically indicated otherwise therein, part III of this chapter have the following respective meanings, unless a different meaning clearly appears from the context:

[(1)] “Agency,” “local agency,” or “local redevelopment agency” means a local redevelopment agency of the county in which a redevelopment project or the redevelopment project concerned is situated, created pursuant to this chapter. Each agency shall be designated by the name of the county followed by the words “redevelopment agency,” e.g., “Maui redevelopment agency.”

[(2)] “Housing and community development corporation of Hawaii,” “corporation,” “government,” “federal government,” and “real property” have the respective meanings set forth for [such] these terms in chapter 201G.

[(3)] “Blighted area” means an area (including a slum area), whether it is improved or unimproved, in which conditions such as: the dilapidation, deterioration, age, or obsolescence of the buildings or improvements thereon; inadequate ventilation, light, sanitation, or open spaces, or other insanitary or unsafe conditions; high density of population and overcrowding; defective or inadequate street layout; faulty lot layout in relation to size, adequacy, accessibility, or usefulness; diversity of ownership; tax or special assessment delinquency exceeding the fair value of the land; defective or unusual conditions of title; improper subdivision or obsolete platting; existence of conditions which endanger life or property by fire or other causes; or any combination of these factors or conditions predominate, thus making the area an economic or social liability, or conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, or otherwise detrimental to the public health, safety, morals, and welfare.

“Bonds” means any bonds, notes, interim certificates, debenture, or other obligations.

[(4)] “Council” means the county or city council of a county or of the county in which the redevelopment project concerned is situated.

[(5)] “Bonds” means any bonds, notes, interim certificates, debentures, or other obligations.

[(6)] “County” has the meaning set forth in section 1-22 and, where appropriate, means the county in which the redevelopment project concerned is situated.

“Obligee” includes any bondholder, agents or trustees for any bondholders, or lessor demising to the agency property used in connection with a redevelopment project, or any assignee or assignees of the lessor’s interest or any part thereof, and the federal government when it is a party to any contract with the agency.

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[(7)] “Planning commission” means the planning commission for the county established by or pursuant to any state law, or, if there is no planning commission, then the council of the county.

[(8)] “Published notice” “Public notice” means notice stating generally the purpose and the time and place for the hearing or meeting to which the notice relates, or stating generally the information required to be covered by the notice, [published] given at least once (unless a greater number [of publications] is specifically required) [in a newspaper of general circulation] in the county in which the hearing or meeting is to be held, or in which the redevelopment project concerned is situated. Unless otherwise specifically provided, the [publication,] notice, or the first [publication] notice (if more than one), [of the notice] must be made at least three days prior to the date of the hearing or meeting to which it relates.

[(9)] “Redevelopment” means the planning, development, replanning, redesign, clearance, reconstruction or rehabilitation, or any combination of these, of a redevelopment area or part thereof, and the provision of the residential, commercial, industrial, public, or other structures or spaces as may be appropriate or necessary in the interest of the general welfare, including recreational and other facilities incidental or appurtenant thereto. The term does not exclude the continuance of existing buildings or uses whose demolition and rebuilding or change of use are not deemed essential to the redevelopment and rehabilitation of the area. The term includes provision for open space types of use, such as streets and other public grounds and space around buildings, as well as buildings, structures, and improvements, public or private, and improvements of recreation areas, public or private, and other public grounds.

[(10)] “Redevelopment area” means all or a portion of an area in a county which the planning commission thereof has determined to be a blighted area and whose redevelopment is necessary to effectuate the public purposes declared in this chapter.

[(11)] “Redevelopment corporation” means a corporation created pursuant to section 53-23.

[(12)] “Redevelopment plan” means a plan, together with any amendments thereto, for the redevelopment of all or any part of a blighted area.

[(13)] “Redevelopment project” means a specific work or improvements to effectuate all or any part of a redevelopment plan.

[(14)] “Resolution,” unless specifically otherwise provided, means a resolution requiring no [published] notice before, and only one reading for, its adoption.

[(15)] “Obligee” includes any bondholder, agents or trustees for any bondholders, or lessor demising to the agency property used in connection with a redevelopment project, or any assignee or assignees of the lessor’s interest or any part thereof, and the federal government when it is a party to any contract with the agency.]

“State” means the State of Hawaii.

[(16)] “Urban area” means any closely settled community in a county.

[(17)] “State” means State of Hawaii.]”

SECTION 20. Section 53-16, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The bonds shall be sold at not less than par at public sale held after public notice [published] given once at least ten days prior to the sale [in a

newspaper having a general circulation] in the county [and in such other medium of publication as the agency may determine]; provided that the bonds may be sold to the federal government at private sale at not less than par, and, in the event less than all of the bonds authorized in connection with any project or projects are sold to the federal government, the balance of the bonds may be sold at private sale at not less than par at an interest cost to the agency of not to exceed the interest cost to the agency of the portion of the bonds sold to the federal government.”

SECTION 21. Section 54-26, Hawaii Revised Statutes, is amended to read as follows:

“**§54-26 Rates.** The board of water supply may fix and adjust rates and charges for the furnishing of water and for water service; provided no rates or charges shall be fixed or adjusted prior to the holding by the board of a public hearing, public notice of which shall be [published in a newspaper of general circulation (one publication)] given not less than twenty days before the date of the public hearing and the notice shall set forth the time, place of the hearing, and the proposed rates and charges to be considered thereat. The board may collect and by appropriate means, including the discontinuance of service to delinquent consumers, or commencement of civil action in the name of the board, enforce the collection of the rates and charges; and [to] adjust and settle all complaints, claims, and accounts of consumers or the public. All water furnished to the county or any department thereof or to the State or any department thereof shall be charged to the respective departments and shall be payable to the board by the respective departments at the rates and times established by the board, and, upon failure of the departments to make payment when payment is due, then the auditor of the county and the comptroller of the department of accounting and general services of the State shall pay from the account of the department or departments all delinquencies as certified<sup>1</sup> by the chairperson of the board.”

SECTION 22. Section 54-63, Hawaii Revised Statutes, is amended to read as follows:

“**§54-63 Rates.** The board of water supply may fix and adjust rates and charges for the furnishing of water and for water services [such] so that the revenues derived therefrom shall be sufficient to make the waterworks and water systems self-supporting and to meet all expenditures authorized by this part; the board may establish variable rates among the several districts of the county, or among the areas served by the individual water systems within the county, for the purpose of establishing charges as closely as possible to the necessary amount required for the maintenance and operation of the particular individual water systems; provided no rates and charges shall be fixed or adjusted prior to the holding by the board of a public hearing, public notice of which shall have been [published in a newspaper of general circulation (one publication)] given not less than twenty days before the date set for the hearing. The notice shall state the time and place for the hearing and the proposed rates and charges to be considered thereat. The time within which the notice shall be [published] given shall be computed by including the first day (the day of [publication]) notice and excluding the last day.”

SECTION 23. Section 77-4, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) There shall be an appeals board composed of one civil service commission member from each jurisdiction who shall be appointed by the governor. Alternate members from each jurisdiction shall also be appointed by the governor.

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The term of two of the incumbents shall expire on June 30, 1964, and the term of the other three shall expire on June 30, 1966. Thereafter, succeeding members and their respective alternates shall be appointed for a term of two years. The cost of operations thereof shall be met by state legislative appropriations.

Notwithstanding any other laws to the contrary, each member of the appeals board shall receive \$10 per day for each day on which work is done by them in connection with authorized activities of the board, the cost thereof to be met by state legislative appropriations for the appeals board.

The appeals board shall meet biennially to receive recommendations and comments relating to the compensation plan. The board shall schedule hearings for pricing appeals from affected persons and parties and may hold public hearings as well. At least one biennial appeal hearing shall be held in each jurisdiction. All petitions for appeal shall be filed with the appeals board within twenty days from the date of [publication] public notice of the tentative compensation plan. Notice of the time and place of [such] the appeal hearings shall be [published in the jurisdiction in a newspaper of general circulation] given in the jurisdiction at least ten days prior to [such] the hearings.

The appeals board shall function independently of the conference of personnel directors and the several civil service departments of the State and the counties, but may procure office facilities and clerical assistance from them. The board may appoint [such] technical and other employees not subject to chapters 76 and 77, [as] that it deems necessary. Neither the appeals board nor any of its members or staff shall consult with any member of the conference of personnel directors on any matter pending before the board except on notice and opportunity for the appealing employee or the employee's representative to participate.

The appeals board may appoint a qualified hearings officer, not subject to chapters 76 and 77, and invest the hearings officer with power to hear [such] the appeals and report thereon to the appeals board. The appeals board shall adopt policies and standards relative to compensation. The appeals board may make rules and regulations for the conduct of appeal hearings and public hearings.”

SECTION 24. Section 77-4, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) The director shall assign new classes to salary ranges on the basis of the policies and standards referred to hereinabove. The assignments shall be effective immediately if the availability of funds is certified to by the respective fiscal officers, and shall be in effect until adoption of the next compensation plan; provided that pricing appeals therefor may be held every six months, or at the time of the next biennial review.

All petitions for appeals from affected persons on the pricing of new classes shall be filed with the appeals board within twenty days from the date the notice of [such] an appeal is given by the director. [Notice] Public notice of the time and place of [such] the appeal hearing shall be [published in the jurisdiction in a newspaper of general circulation] given in the jurisdiction at least ten days prior to the hearing. The appeals board shall hear all the appeals as aforementioned.

Except as otherwise provided in this subsection, the procedures to be followed shall be that prescribed in subsections (c) and (d) and in the rules [and regulations] of the board.

Public hearings shall not be held under this subsection.

After hearing all appeals, the appeals board shall make adjustments to the appealed classes that are necessary based on the policies and standards referred to hereinabove. Decisions on the pricing appeals shall be made on the basis of majority vote, shall be in writing and accompanied by separate findings, and shall be binding on all jurisdictions.

The final adjustments for these appeals in January shall be completed no later than the third Wednesday of January of each odd-numbered year. Following the final adjustments, each director shall submit to the state legislature, through the office of the governor, a report setting forth the adjustments based on the decisions of the board and the cost thereof for its information and approval.

All decisions of the board under this subsection in favor of the person appealing and granting a higher compensation shall be retroactive to the date of action by the director.”

SECTION 25. Section 78-1, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) For the purpose of obtaining services which are essential to the public interest for which no competent person with the qualifications under subsection (c) applies within forty-five days after the first [publication of an advertisement] public notice of the position or a notice of an examination therefor, which [advertisement or] notice has been [published] given more than once, and not more often than once a week, [in a newspaper of general circulation in the State,] statewide, a person without the qualifications, upon prior certification by the state director of human resources development or the personnel director of the appropriate county, and with the approval of the chief executive officer for the State or the political subdivision concerned, may be employed.”

SECTION 26. Section 88-171, Hawaii Revised Statutes, is amended to read as follows:

“**§88-171 Public hearings; notice.** All adjudications by the board of trustees required by this part in connection with applications for pensions, revocations of pensions, or otherwise, shall be made by the board only after public hearings, public notice of which shall be given by the board [by advertisement] at least once [in a newspaper, the publication to be made] at least ten days before the date of hearing, and actual notice of which shall be given to the person concerned, if available, which notice shall specifically state that the person interested shall have the right to be present in person or by representative and to be represented by counsel.”

SECTION 27. Section 91-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Prior to the adoption of any rule authorized by law, or the amendment or repeal thereof, the adopting agency shall:

- (1) Give at least thirty days’ notice for a public hearing. The notice shall include:
  - (A) [Either:
    - (i)] A statement of the [substance] topic of the proposed rule adoption, amendment, or repeal[;] or
    - [(ii) A] a general description of the subjects involved [and the purposes to be achieved by the proposed rule adoption, amendment, or repeal]; and
  - (B) A statement that a copy of the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed will be mailed [at no cost] to any interested person who requests a copy, pays in advance for the copy and the postage, together with a description of where and how the requests may be made; [and]
  - (C) A statement of when, where, and during what times the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed may be reviewed in person; and

[(C)] (D) date, time, and place where the public hearing will be held and where interested persons may be heard on the proposed rule adoption, amendment, or repeal.

The notice shall be mailed to all persons who have made a timely written request of the agency for advance notice of its rulemaking proceedings, and [published] given at least once [in a newspaper of general circulation in the State] statewide for state agencies and in the county for county agencies.

- (2) Afford all interested persons opportunity to submit data, views, or arguments, orally or in writing. The agency shall fully consider all written and oral submissions respecting the proposed rule. The agency may make its decision at the public hearing or announce then the date as to when it intends to make its decision. Upon adoption, amendment, or repeal of a rule, the agency [shall], if requested to do so by an interested person, shall issue a concise statement of the principal reasons for and against its determination.”

SECTION 28. Section 91-3, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The requirements of subsection (a) may be waived by the governor in the case of the State, or by the mayor in the case of a county, whenever a state or county agency is required by federal provisions to [promulgate] adopt rules as a condition to receiving federal funds and [such] the agency is allowed no discretion in interpreting [such] the federal provisions as to the rules required to be [promulgated;] adopted; provided that the agency shall make [such] the adoption, amendment, or repeal known to the public by [publishing a statement] giving public notice of the substance of the proposed rule at least once [in a newspaper of general circulation in the State] statewide prior to the waiver of the governor or the mayor.”

SECTION 29. Section 92-41, Hawaii Revised Statutes, is amended to read as follows:

“[[§92-41] **Publication of legal** Giving public notices. Notwithstanding any law to the contrary, all governmental agencies scheduling a public hearing shall [publish a] give public notice [in a newspaper which is printed and issued at least twice weekly] in the county affected by the proposed action, to inform the public of the time, place, and subject matter of [such] the public hearing. This requirement shall prevail whether or not the [publication by] the governmental agency [of a] giving notice of public hearing [in a newspaper of general circulation] is specifically required by law, and shall be in addition to other procedures required by law.”

SECTION 30. Section 109-8, Hawaii Revised Statutes, is amended to read as follows:

“[[§109-8] **Lost and found money or property at the stadium**. All money or property found at the stadium shall be reported or delivered by the finder to the stadium lost and found, and when so delivered shall be held by the stadium for forty-five days or until claimed by some person who establishes title or right of custody thereto to the satisfaction of the stadium manager, whichever is shorter. In the event of [such] establishment of title or right of custody, the money or property shall be delivered to the claimant by the manager or the manager’s agent. If after forty-five days no claimant establishes a right to the money or property, the money or property may be claimed by the person who delivered it to the stadium lost and found; provided that if the person who delivered it to the stadium lost and found fails



to claim the money or property within thirty days after being notified by the manager, the manager shall deposit the money into the state treasury to the credit of the stadium special fund or shall dispose of the property by public auction. The manager shall [place notice in a newspaper of general circulation] give public notice, giving details as to time and place of the auction and giving notice to all persons interested in claiming the property that unless claims are made by persons who can provide satisfactory proof of ownership before a specified date, the property will be sold at public auction to the highest bidder; provided that if the manager considers the highest bid to be insufficient, the manager shall have the right to decline the sale to the highest bidder and may reoffer the property at a subsequent public auction. On the day and at the place specified in the notice, all property for which no satisfactory proof of ownership is made shall be sold by auction by or under the direction of the manager.

If any property which is of a perishable nature or which is unreasonably expensive to keep or safeguard remains unclaimed at the stadium, the manager may sell that property at public auction, at [such] a time and after [such] notice [as] that is reasonable under the circumstances. If the manager determines that any property delivered to the manager pursuant to this section has no apparent commercial value, the manager [may] at any time thereafter may destroy or otherwise dispose of the property.

The manager shall deposit into the stadium special fund all moneys received from the sale, destruction, or disposition of any property. No action or proceeding shall be brought or maintained against the State or any officer thereof on account of such sale, destruction, or disposition. The purchaser of property at any sale conducted by the manager pursuant to this section shall receive good title to the property purchased and shall take possession of the property free from any and all claims of the owner, prior owners, and any person claiming title.

For purposes of this section, notice by regular mail to the last known address of the person who delivered the money or property to the stadium lost and found shall be deemed sufficient.”

SECTION 31. Section 110-3, Hawaii Revised Statutes, is amended to read as follows:

**“[[§110-3]] Removal of remains; public hearing and other requirements.** The comptroller may disinter and relocate remains in any state-owned cemetery or between state-owned cemeteries to improve, redevelop, or reduce the size of any state-owned cemetery, or to facilitate the subsequent disposition of any state-owned cemetery; provided that:

- (1) Before disinterring any remains, the comptroller shall hold at least one public hearing to afford the public an opportunity to review the plans to improve, redevelop, reduce the size of, or dispose of the cemetery and to submit comments and views on the proposed project; and
- (2) The comptroller shall notify in writing the known relative of a deceased person whose remains are to be disinterred and relocated of the public hearing required by paragraph (1); if the relatives of the deceased are unknown the comptroller shall [publish] give at least one public notice of the public hearing [in a newspaper of general circulation in the State.] statewide.”

SECTION 32. Section 157-33, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Without regard to the notice and public hearing requirements of chapter 91 and based on the specific formulas or criteria adopted under section 157-31(a)(2),

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the board may establish by order the minimum prices and salvage values for milk to be paid to producers by producer-distributors and distributors. An order establishing minimum prices or salvage values for milk, or both, shall be subject to approval by the governor prior to [such] the order taking effect.

- (1) Prior to the effective date of any [such] order, the department shall [publish in a newspaper of general circulation a] give public notice that includes:
  - (A) Either a statement of the substance of the proposed order; or a statement of the minimum prices or salvage values for milk to be established, and
  - (B) A statement that a copy of the proposed order will be mailed to any interested person who requests a copy, together with a description of where and how the requests may be made.
- (2) The notice shall be mailed to all persons who have made a timely written request of the department for advance notice of these orders or of the department's rulemaking proceedings. The department may require reimbursement for the cost of preparing and mailing the copies."

SECTION 33. Section 167-17, Hawaii Revised Statutes, is amended to read as follows:

**“~~[[§167-17]]~~ Formation of irrigation project on initiative of board; notice and hearing; protests.** The board of agriculture may organize irrigation projects upon its own initiative. In [such] this event, it shall fix a date for public hearing upon the proposed project, which date shall not be less than sixty days after the first [publication of] public notice thereof [in a newspaper of general circulation] in the county in which the project is proposed. The notice shall be [published] given once in each of four successive weeks, [giving notice of] describing or identifying the area to be included in and general details of the proposed project, stating the time and place of the public hearing. If the owners of fifty-five per cent of the acreage of agricultural and pasture lands proposed to be organized into an irrigation project [shall] at the hearing or prior thereto file written protest against the proposed project, the project shall not be made and proceedings shall not be renewed within twelve months from the date of closing the public hearing, unless each and every owner protesting withdraws each and every owner's protest; provided that any lessee of any agricultural or pasture lands included within the proposed project, who, by the express terms of the lessee's lease must pay the assessment contemplated hereunder shall be subrogated to all the rights of the owner to protest by filing at the hearing or prior thereto written protest against the proposed project, the written protest to be accompanied by a certified copy of the lease; provided further that any lessor [may], at any time before the closing of the public hearing, may make void the protest of the lessor's lessee on consideration of the filing with the board a duly acknowledged waiver of the provision in the lease which requires the lessee to pay the assessment, and a written undertaking of the lessor to pay the assessment to be made on account of the proposed project; and further provided that a project may be instituted without further [advertisement] public notice for a smaller acreage within the [advertised] acreage described in the public notice in the event the board determines the smaller project to be economically feasible, if written protests by the owners, or lessees subrogated to the right to protest, of fifty-five per cent of the smaller acreage shall not be filed.”

SECTION 34. Section 171-16, Hawaii Revised Statutes, is amended to read as follows:

“§171-16 Notices. (a) Auctions. [Notice] Public notice of any proposed disposition by auction shall be [published] given at least once in each of three successive weeks [in a newspaper of general circulation in the State] statewide and, in addition, [in a newspaper of general circulation] in the appropriate county, if the land is situated in the first, second, and fourth districts, the last [publication] public notice to be not less than ten days before the date of the auction. Notice of the auction shall contain the following:

- (1) Time and place of the auction;
- (2) General description of the land, including the address and tax map key;
- (3) Specific use for which the disposition is intended; and
- (4) Upset price or rental to be charged. The maps showing the metes and bounds description and the classification of the land shall be kept in the office of the board of land and natural resources and of its land agent in the county in which the land is situated, and shall be open for inspection at all reasonable hours.

(b) Drawings. Whenever a disposition by drawing by lots is proposed, public notice inviting applications to participate in the drawing shall be [published] given once a week for four successive weeks [in a newspaper of general circulation published in the State] statewide and, in addition, [in a newspaper of general circulation] in the appropriate county, if the land is situated in the first, second, and fourth districts. The notice shall contain:

- (1) [the] The qualifications required of applicants;
- (2) [a] A general description of the land, including the address and tax map key;
- (3) [specific] Specific use for which the disposition is intended; and
- (4) [date] Date by which all applications must be filed, which date shall be not less than fourteen days after the last [publication date.] notice.

Within forty-five days after the closing date for applications, the board shall select those qualified to participate in the drawing, notify all applicants as to whether or not they qualified, and conduct the drawing.

The notice of selection of applicants qualified to participate in the drawing, together with the notice of drawing, shall be mailed to each applicant, whether or not the applicant, in fact, qualified. The notice of the drawing shall state the time and place of the drawing. In addition to the notice to each applicant, the board shall [publish the] give public notice of the drawing at least three times within a period of ten days [in a newspaper of general circulation in the State] statewide and, in addition, in [a newspaper of general circulation in] the appropriate county, if the land is situated in the first, second, and fourth district, each [publication] notice to be not oftener than once in two successive days. Upon completion of the drawing, the award shall be announced within one week, and the lease or patent issued within ninety days after the drawing or when the conditions of the sale are fulfilled.

(c) Negotiation. [Notice] Public notice of a proposed disposition by negotiation shall be [published] given at least once in each of three successive weeks [in a newspaper of general circulation in the State] statewide and, in addition, in [a newspaper of general circulation in] the appropriate county if the land is situated in the first, second, and fourth districts; provided that the notices are not required for permits, and dispositions of remnants. [Such] The notice shall invite proposals and state in general terms the size, location, and prices or rental of lots to be sold or leased, the terms of sale or lease, and the last date on which application will be received by the board, which date shall not be less than thirty days after the last date of [publication of] the notice. The notice shall also state the times and places at which more detailed information with respect to the sale or lease may be secured by interested persons.

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(d) Exchanges; quitclaim; submerged and reclaimed lands; reservations and easements. Whenever it is proposed to exchange public lands for private land pursuant to section 171-50, quitclaim public land or any interests of the State in private land pursuant to section 171-51, dispose of submerged or reclaimed public land pursuant to subsections (b) and (d) of section 171-53, dispose of a land license by negotiation pursuant to section 171-54, or dispose of reserved rights and easements pursuant to section 171-57, public notice of [such] the disposition shall be [published] given at least once in each of three successive weeks [in a newspaper of general circulation in the State] statewide and, in addition, in [a newspaper of general circulation in] the appropriate county if the public land is situated in the first, second, and fourth districts. The notice shall state in general terms the size and location of the public lands proposed to be disposed.”

SECTION 35. Section 171-31.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The department shall also [advertise] give public notice of the disposition at least once [in a newspaper of general circulation] in the county where the property was abandoned or seized; provided that the disposition shall not take place less than five days after [advertising] the notice of intent to dispose of the property.”

SECTION 36. Section 171-31.5, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) The requirement of [advertisement] public notice and public auction shall not apply when the value of the property abandoned or seized is less than \$100. In that event, the property may be sold by negotiation, disposed of or sold as junk, kept by the department, or donated to any other government agency or a charitable organization.”

SECTION 37. Section 171-41.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Before any amendment to a state lease, the board of land and natural resources shall give no fewer than fourteen days’ public notice [by advertisement in no fewer than two newspapers, at least one of general circulation in the State and one of general circulation] statewide and, in addition, in the county where the subject property is situated. A full hearing shall be given by the board of land and natural resources, to all who desire to be heard upon the subject matter of the notice. The hearing shall be public, on the island where the subject property is situated, and shall be conducted under [such] rules [as] that the board may adopt.”

SECTION 38. Section 171-60, Hawaii Revised Statutes, is amended to read as follows:

“**§171-60 Development through private developer.** (a) Leasehold projects. Notwithstanding anything in this chapter to the contrary, the board [may], by negotiation and without recourse to public auction, with the prior approval of the governor and authorization of the legislature by concurrent resolution approving a development project, [such] the concurrent resolution to be adopted by each house no earlier than forty-eight hours after printed copies thereof have been made available to members of that house, [(1)] may lease public lands, including submerged lands to be reclaimed at the developer’s or developers’ expense, to a private developer or developers, or [(2)] enter into a development agreement with a private developer or developers, for development and subdivision of [such] the lands as a leasehold project for agricultural, industrial, single-family or multiple-family resi-

dential, commercial, business, or hotel and resort uses, as provided in this subsection.

Prior to leasing any public land to, or entering into a development contract with, a developer or developers, the board shall:

- (1) Determine:
  - (A) Whether the lands shall be developed by disposition or contract;
  - (B) The location, area, and size of the lands to be developed;
  - (C) The use or uses to which the lands shall be put, which shall be in conformity with the applicable state, city and county, or county zoning and subdivision laws, ordinances, or regulations;
  - (D) The estimated period of time to construct and complete the development;
  - (E) Minimum requirements for on-site and off-site improvements, if any;
  - (F) Whether any beach rights-of-way or public game preserves should be established; and
  - (G) [Such other] Other terms and conditions [as shall be] that are deemed necessary by the board[:];
- (2) Set the minimum rental of the lands to be developed on the basis of an appraisal report prepared by an appraiser for the board determining the fair market value of the lands to be developed[:];
- (3) Give public notice of the proposed disposition or contract [by publication] at least once in each of three successive weeks [in a newspaper of general circulation in the State] statewide and, in addition [in a newspaper of general circulation], in the appropriate county, if the land is situated in the first, second, and fourth districts. [Such] The notice shall invite interested persons to submit applications to be selected as the developer or developers for the project and sealed bids for the development of the lands. The notice shall also state in general terms the size, location, and minimum rental of the area to be leased to the developer or developers, the minimum requirements for any required off-site and on-site improvement, the maximum estimated period of time to install and complete the construction of any required improvement, the use or uses to which [such] the lands shall be put, the last date on which applications and sealed bids will be received by the board, which date shall not be less than thirty days or more than ninety days after the last [date of publication of such] notice, and the times and places at which more detailed information with respect to the disposition or contract may be secured by interested persons.

Each applicant shall include, together with the applicant's sealed bid, a financial statement, and performance and experience records in real estate development; provided that the board [may also], in its discretion, may require the applicant to submit answers, under oath, to questions contained in a questionnaire prepared by the board; the applicant's sealed bid shall include a development plan in as much detail as possible and including but not limited to the following: the applicant's proposal as to how and when the applicant intends to develop the land, including any permitted incremental development, the amount of money the applicant intends to commit to the total project, the method of recovery of the applicant's costs and profits, the amount the applicant agrees to pay to lease or contract to develop the land, and the income the State will receive from leases[:];

- (4) Establish reasonable criteria for the selection of the private developer or developers[:]; and

- (5) Determine within forty-five days of the last day for filing applications the applicant or applicants who meet the criteria for selection set by the board, and notify all applicants of its determination within seven days of [such] a determination. Any applicant may examine the basis of the determination, which shall be in writing, to ascertain whether or not the conditions and criteria established by the board were followed; provided that if any applicant does not notify the board of any objections and the grounds therefor, in writing, within ten days of the receipt of [such] a notice, the applicant shall be barred from proceeding to seek legal remedy for an alleged failure of the board to follow the conditions and criteria.

If only one applicant meets the criteria for selection as the developer, the board then may negotiate the details of the disposition of [such] the public lands to, or enter into a development contract with, the developer; provided that the terms of the disposition or contract shall not be less than those proposed by the developer in the application and shall be subject to the concurrence of the governor. If two or more applicants meet the criteria for selection, the board shall consider all of the relevant facts of the disposition or contract, the proposals submitted by each applicant, the experience and financial capability of each applicant, and [shall] within forty-five days from the date of selection of the applicants that met the criteria, shall select the applicant who submitted the best offer. The board then may negotiate the details of the disposition of [such] the public lands or enter into a development contract with the developer; provided that the terms of the disposition or contract shall not be less than those proposed by the developer in the application and shall be subject to the concurrence of the governor.

The terms of any disposition or development contract shall include the following, wherever appropriate:

- (A) The development and subdivision shall comply with appropriate state, county, and city and county zoning and subdivision requirements[.];
- (B) The developer or developers shall file with the board a good and sufficient bond conditioned upon the full and faithful performance of all the terms, covenants, and conditions of the disposition or development contract[.];
- (C) The use or uses to which the land will be put. Development of large, though economic, tracts of land with multiple but complementary uses should be encouraged[.];
- (D) The dates on which the developer must submit preliminary plans and final plans and specifications for the total development to the board for approval, which approval shall not be arbitrarily or capriciously withheld. No construction shall commence until the board has approved the final plans and specifications; provided that with board approval construction on an incremental basis may be permitted[.];
- (E) The date of completion of the total development, including the date of completion of any permitted incremental development[.];
- (F) The minimum requirements for off-site and on-site improvements that the developer must install, construct, and complete by the date of completion of the total development. The board may permit incremental development and establish the minimum requirements for off-site and on-site improvements that must be

installed, constructed, and completed prior to the date of completion of the total development[.];

- (G) In the event of a lease the developer may be permitted, after the developer has completed construction of any required off-site improvement, to assign or sublease with board approval portions of the leased lands in which the construction of any required off-site improvement has been completed to a purchaser or sublessee who shall assume the obligations of the developer relative to the parcel being assigned or subleased, including the construction of any on-site improvement. The board may permit a developer to share in the lease rent for a fixed period in order to recover costs and profit[.];
- (H) A development agreement may provide that the board shall issue a lease to the nominee or nominees of the developer, including the developer, pursuant to the terms previously negotiated and agreed upon between the developer and the board, including the lease rent to the lessee and the method of recoupment of expenses and profit by the developer[.];
- (I) The board shall lay out and establish a number of rights-of-way from proposed or established highways to the public beaches and game preserves in order that the right of the people to utilize the public beach or beaches and public game preserves shall be protected.

Prior to leasing or entering into any development contract, the board shall determine the feasibility of hunting on [such] the lands, and if any of them is suitable for hunting or [may] during the term of the lease may become suitable for hunting, the board may reserve [such] the lands as game preserves. Where the board finds that hunting on [such] the lands would not be consistent with the rights of the lessee or for other good cause, the board need not reserve [such] the lands as game preserves.

The cost of [such] the rights-of-way and any fencing which may be required shall be borne by the State, lessee, or jointly as the board may deem appropriate prior to the leasing of [such] the lands.

In any disposition of beach-front lands, the board shall give consideration to the needs of the public for beach area above and below the high-water mark[.];

- (J) The board may include in any development contract or lease, provisions concerning notice of breach or default, rights of a holder of a security interest, and consent to mortgage as set forth in sections 171-20, 171-21, and 171-22, respectively[.]; and
- (K) [Such] Any other terms and conditions set by the board.

The term “developer” as used in this subsection [shall mean] means a person, firm, corporation, partnership, association, trust, or other legal entity, or a combination of any thereof, who or which has experience in the development and subdivision of land for single-family, multiple-family, industrial, hotel and resort, business commercial, or agricultural uses and has the financial ability satisfactory to the board to develop and subdivide land.

(b) Fee simple residential development. Notwithstanding anything in this chapter to the contrary, the board [may], by negotiation and without recourse to public auction, with the prior approval of the governor and authorization of the legislature by concurrent resolution approving the development project, [such] the concurrent resolution to be adopted by each house no earlier than twenty-four hours

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after printed copies thereof have been made available to the members of that house, may dispose of public lands, including submerged lands to be reclaimed at developer's or developers' expense, by sale of the fee, for single-family or multiple-family residential uses, as provided in this subsection.

Prior to the sale in fee of any public land to a developer or developers, the board shall:

- (1) Determine:
  - (A) [the] The location, area, and size of the lands to be developed;
  - (B) [the] The use or uses to which the lands shall be put, which shall be in conformity with the applicable state, city and county, or county zoning and subdivision laws, ordinances, or regulations;
  - (C) [the] The estimated period of time to construct and complete the development;
  - (D) [minimum] Minimum requirements for on-site and off-site improvements, if any;
  - (E) [whether] Whether any beach rights-of-way or game preserves should be established; and
  - (F) [such] Any other terms and conditions [as shall be] deemed necessary by the board;
- (2) Set the minimum sale price of the lands to be developed on the basis of an appraisal report prepared by an appraiser for the board determining the fair market value of the lands to be developed;
- (3) Give public notice of the proposed disposition [by publication] at least once in each of three successive weeks [in a newspaper of general circulation in the State] statewide and, in addition [in a newspaper of general circulation], in the appropriate county if the land is situated in the first, second, and fourth districts. [Such] The notice shall invite interested persons to submit applications to be selected as the developer or developers for the project and sealed bids for the development of the lands. The notice shall also state in general terms the size, location, and minimum sale price of the area to be sold to the developer or developers, the minimum requirements for any required off-site and on-site improvements, the maximum estimated period of time to install and complete the construction of any required improvements, the use or uses to which [such] the lands shall be put, the last date on which applications and sealed bids will be received by the board, which date shall not be less than thirty days or more than ninety days after the last [date of publication of such] notice, and the times and places at which more detailed information with respect to the disposition may be secured by interested persons.

Each applicant shall include, together with the applicant's sealed bid, a financial statement and the applicant's performance and experience records in real estate development[,]; provided that the board [may also], in its discretion, may require the applicant to submit answers, under oath, to questions contained in a questionnaire prepared by the board; the applicant's sealed bid shall include a development plan in as much detail as possible and including but not limited to the following: the applicant's proposal as to how and when the applicant intends to develop the land, including any permitted incremental development, the amount of money the applicant intends to commit to the total project, the method of recovery of the applicant's costs and profits, and the amount the applicant agrees to pay to purchase the land;

- (4) Establish reasonable criteria for the selection of the private developer or developers;



- (5) Determine within forty-five days of the last day for filing applications, the applicant or applicants who meet the criteria for selection set by the board, and notify all applicants of its determination within seven days of [such] its determination. Any applicant may examine the basis of the determination, which shall be in writing, to ascertain whether or not the conditions and criteria established by the board were followed; provided that if any applicant does not notify the board of the applicant's objections and the grounds therefor, in writing, within ten days of the receipt of [such] the notice, the applicant shall be barred from proceeding to seek legal remedy for any alleged failure of the board to follow the conditions and criteria[; and].

If only one applicant meets the criteria for selection as the developer, the board may then negotiate the details of the disposition of [such] the public lands to the developer; provided that the terms of the disposition shall not be less than those proposed by the developer in the developer's application and shall be subject to the concurrence of the governor. If two or more applicants meet the criteria for selection, the board shall consider all of the relevant facts of the disposition, the proposals submitted by each applicant, the experience and financial capability of each applicant and [shall] within forty-five days from the date of selection of the applicants that met the criteria, shall select the applicant who submitted the best offer. The board may then negotiate the details of the disposition of [such] the public lands with the developer; provided that the terms of the disposition shall not be less than those proposed by the developer in the developer's application and shall be subject to the concurrence of the governor.

The terms of the disposition shall include the following:

- (A) The development and subdivision shall comply with appropriate state, county, and city and county zoning and subdivision requirements[.];
- (B) The developer or developers shall file with the board a good and sufficient bond conditioned upon the full and faithful performance of all the terms, covenants, and conditions of the disposition[.];
- (C) The use or uses to which the land will be put[.];
- (D) The dates on which the developer must submit preliminary plans and final plans and specifications for the total development to the board for approval, which approval shall not be arbitrarily or capriciously withheld. No construction shall commence until the board has approved the final plans and specifications; provided that with board approval construction on an incremental basis may be permitted[.];
- (E) The date of completion of the total development, including the date of completion of any permitted incremental development[.];
- (F) The minimum requirements for off-site and on-site improvements that the developer must install, construct, and complete by the date of completion of the total development. The board may permit incremental development and establish the minimum requirements for off-site and on-site improvements that must be installed, constructed, and completed prior to the date of completion of the total development[.];
- (G) The title to the land shall remain in the State until the purchaser has made all payments required in the terms of the sale and has constructed the improvements as agreed; provided that the devel-

oper may assign, with the approval of the board, the developer's sales agreement with the board as security for a loan to finance the balance of or a part of either the purchase price of the land or the cost of improvements, or both; provided further that if incremental development is permitted and the developer has completed construction of the required improvements in the increment and is able to pay or has paid for the agreed purchase price of the land within the increment, then the developer shall be entitled to a land patent or a deed to the land within [such] the completed increment[.];

- (H) The board shall lay out and establish over and across [such] the lands a reasonable number of rights-of-way from proposed or established highways to the public beaches and game preserves in order that the right of people to utilize the public beach or beaches and public game preserves shall be protected.

The board may provide for the reservation of any lands within the lands to be disposed as game preserves if the board determines the establishment of [such] the game preserves to be in the public interest.

The cost of [such] rights-of-way and fencing which may be required shall be borne by the State, developer, or jointly as the board may deem appropriate prior to the disposition of [such] the lands.

In any disposition of beach-front lands, the board shall give consideration to the needs of the public for beach area above and below the high-water mark[.]

- (I) The board may include in any sales agreement provisions concerning notice of breach or default, rights of a holder of a security interest, and consent to mortgage as set forth in sections 171-20, 171-21, and 171-22, respectively[.] and

- (J) [Such other] Other terms and conditions set by the board.

The term "developer" as used in this subsection means a person, firm, corporation, partnership, association, trust, or other legal entity, or a combination of any thereof, who or which has experience in the development and subdivision of land for single-family or multiple-family residential uses and has the financial ability satisfactory to the board to develop and subdivide land."

SECTION 39. Section 172-1, Hawaii Revised Statutes, is amended to read as follows:

**"§172-1 Department to list lands on which commutation payable; [publication;] public notice; notice to pay.** The department of land and natural resources shall prepare a list of all lands on which commutation to extinguish the government's right therein is payable. Upon completion of the list the department shall [publish the same in a newspaper of general circulation] give public notice thereof throughout the State, at least once each week for four successive weeks, together with notice that [unless the commutation is paid prior to January 1, 1910,] the amount of commutation ascertained shall thereafter bear interest at the rate of six per cent a year and be subject to collection in the manner provided by law."

SECTION 40. Section 172-8, Hawaii Revised Statutes, is amended to read as follows:

**"§172-8 Notice to owners to have boundaries determined.** Upon the completion of [such] a list, the comptroller shall [publish the same in a newspaper of general circulation] give public notice thereof throughout the State at least once each

week for four successive weeks, together with name or names of the last known owner or owners, and with a notice that unless the unsurveyed lands have had their boundaries properly and legally determined prior to July 1, 1925, the State shall proceed in the manner hereinafter provided for.”

SECTION 41. Section 174-17, Hawaii Revised Statutes, is amended to read as follows:

**“§174-17 Formation of a project on initiative of board; notice and hearing; protests.** The board of land and natural resources may organize projects upon its own initiative. In [such] this event, it shall fix a date for public hearing upon the proposed project, which date shall not be less than sixty days after the first [publication of] public notice thereof [in a newspaper of general circulation] in the county in which the project is proposed. The notice shall be [published] given once in each of four successive weeks, [giving] and shall include notice of the area to be included in and general details of the proposed project, stating the time and place of the public hearing. If the owners of fifty-five per cent of the acreage of lands proposed to be organized into a project [shall] at the hearing or prior thereto shall file written protest against the proposed project, the project shall not be made and proceedings shall not be renewed within twelve months from the date of closing the public hearing, unless each and every owner protesting withdraws each and every owner’s protest; provided that any lessee of any lands included within the proposed project, who, by the express terms of the lessee’s lease must pay the assessment contemplated hereunder shall be subrogated to all the rights of the owner to protest by filing at the hearing or prior thereto written protest against the proposed project, the written protest to be accompanied by a certified copy of the lease; provided further that any lessor [may], at any time before the closing of the public hearing, [make] may void the protest of the lessor’s lessee on consideration of the filing with the board a duly acknowledged waiver of the provision in the lease which requires the lessee to pay the assessment, and a written undertaking of the lessor to pay the assessment to be made on account of the proposed project; and further provided that a project may be instituted without further [advertisement] public notice for a smaller acreage within the [advertised] acreage described in the original public notice in the event the board determines the smaller project to be economically feasible, if written protests by the owners, or lessees subrogated to the right to protest, of fifty-five per cent of the smaller acreage shall not be filed. The department shall assure that adequate water is reserved for future development and use on Hawaiian home lands that could be served by the proposed water project.”

SECTION 42. Section 174C-26, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) When the commission requires filing of declarations by rules, it shall cause public notice of the rule to be given [by publication in a newspaper of] statewide [circulation] for filings in the city and county of Honolulu and [by publication in a newspaper of] areawide or countywide [circulation] and [in a newspaper of] statewide [circulation] for filings in counties other than the city and county of Honolulu. The commission shall also cause notice of the rules to be given by mail to any person required to file of whom the commission has or could readily obtain knowledge or who has requested mailed notice to be given when the commission adopts rules requiring the filing of declarations.”

SECTION 43. Section 174C-42, Hawaii Revised Statutes, is amended to read as follows:

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“**[§174C-42]** **Notice; public hearing required.** When a recommendation for designation of a water management area has been accepted, the commission shall hold a public hearing at a location in the vicinity of the area proposed for designation and publish a give public notice of the hearing setting forth: [a]

- (1) A description of the land area proposed to be designated in terms of appropriate legal subdivisions and tax map keys; [the]
- (2) The purpose of the public hearing; and [the]
- (3) The time, date, and place of the public hearing where written or oral testimony may be submitted and heard.

The notice shall be published given once each week for three successive weeks [in a countywide newspaper of general circulation] in the appropriate county and the last [publication] notice shall be not less than ten days nor more than thirty days before the date set for the hearing. [Publication of the] The notice of public hearing shall be considered as sufficient notice to all landowners and water users who might be affected by the proposed designation.”

SECTION 44. Section 174C-46, Hawaii Revised Statutes, is amended to read as follows:

“**[§174C-46]** **Findings of fact; decision of commission.** After public hearing and any investigations deemed necessary have been completed, the chairperson, after consultation with the appropriate county council and county water board, shall make a recommendation to the commission for decision. If the commission decides to designate a water management area, it shall cause a public notice of its decision to be published in a newspaper of general circulation given in the appropriate county and when so published given its decision shall be final unless judicially appealed.”

SECTION 45. Section 182-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) If any mineral is discovered or known to exist on state lands, any interested person may notify the board of land and natural resources of the person’s desire to apply for a mining lease. The notice shall be accompanied by a fee of \$100 together with a description of the land desired to be leased and the minerals involved and such any information and maps as that the board by regulation rule may prescribe. As soon as practicable thereafter, the board shall cause a public notice to be published in a newspaper of general circulation given in the county where the lands are located, at least once in each of three successive weeks, setting forth the description of the land, and the minerals desired to be leased. The board may hold the public auction of the mining lease within six months from the date of the first publication of notice or such any further time as that may be reasonably necessary. Whether or not the state land sought to be auctioned is then being utilized or put to some productive use, the board, after due notice of public hearing to all parties in interest, within six weeks from the date of the first publication of notice or such any further time as that may be reasonably necessary, shall determine whether the proposed mining operation or the existing or reasonably foreseeable future use of the land would be of greater benefit to the State. If the board determines that the existing or reasonably foreseeable future use would be of greater benefit to the State than the proposed mining use of the land, it shall disapprove the application for a mining lease of the land without putting the land to auction. The board shall determine the area to be offered for lease and, after due notice of public hearing to all parties in interest, may modify the boundaries of the land areas. At least thirty days prior to the holding of any public auction, the board shall cause a public notice to be published in a newspaper of general circulation given in the State at least once in

each of three successive weeks, setting forth the description of the land, the minerals to be leased, and the time and place of the auction. Bidders at the public auction may be required to bid on the amount of annual rental to be paid for the term of the mining lease based on an upset price fixed by the board, a royalty based on the gross proceeds or net profits, cash bonus, or any combination or other basis and under [such] any terms and conditions [as] that may be set by the board.”

SECTION 46. Section 183-12, Hawaii Revised Statutes, is amended to read as follows:

**“§183-12 Notice of hearing.** Before setting apart any government lands under this chapter or before revoking, modifying, or suspending any orders and proclamations or any part thereof which set apart [such] the lands as forest reserves, the governor shall give not less than fourteen days’ public notice[, by advertisement in not less than two newspapers, published in the State] statewide of the governor’s intention to consider either the setting apart of government land for forest reserves under this chapter, or the revoking, modifying, or suspending of any orders and proclamations or any part thereof which set apart [such] the lands. The notice or notices shall contain the name or names of the island or islands and of the district or districts in which [such] the land or lands are located and shall further appoint a time or times, place or places for hearing evidence and arguments either for or against the setting apart of the proposed forest reserves or the revoking, modifying, and suspending of any forest reserve made under this chapter.”

SECTION 47. Section 183-19, Hawaii Revised Statutes, is amended to read as follows:

**“§183-19 Exclusion of livestock from forest reserves, game management areas, public hunting areas, and natural area reserves; notice.** When branded wild cattle or horses are found on any forest land, game management area, public hunting area, or natural area reserve in the State, which land is duly set apart and established as a forest reserve, game management area, public hunting area, or natural area reserve, or if the land is privately owned and surrendered as defined in section 183-15, the department, in all cases where the land is so set apart and established as a forest reserve, game management area, public hunting area, or natural area reserve, whether from privately owned lands or public lands, may remove, shoot, or destroy the cattle or horses without compensation to the owner, after thirty days’ public notice [and three insertions] of the intended action [have been given by publication in a newspaper of general circulation] in the county where the cattle or horses are found.”

SECTION 48. Section 183-20, Hawaii Revised Statutes, is amended to read as follows:

**“§183-20 Disposition.** The department [may], at any time, without notice to the owners, may remove any and all cattle or horses found on any forest reserve, game management area, public hunting area, or natural area reserve and may hold and care for [all such] the cattle or horses in some convenient place, at the expense of the owners, subject to the lien for charges and expenses as herein provided. The owners of the cattle or horses shall pay to the department the actual expenses reasonably incurred, which shall include, but not be limited to, allowances for employees’ wages, equipment cost, transportation cost, feeding cost, cost of [advertising] public notice, and other costs related to the catching, driving, and transportation of animals. After the cattle or horses have been removed and held, the owners

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shall be notified personally of this fact, if the owners [be] are known, and shall be notified of the total amount of the charges and expenses to be paid for the release of the cattle or horses.

When the owners are unknown or cannot be found, the department shall [publish a statement and notice in a newspaper of general circulation] give public notice in the county in which the cattle or horses are held. The [statement] notice shall set forth the general description and the brands of all the cattle or horses so removed and held and shall notify the owners and the public generally that unless the charges and costs to be specified in the notice shall have been paid on or before the date therein specified, which date shall not be less than two weeks from the date of the last [publication of the] notice, the cattle or horses therein described shall be sold at public auction for cash to the highest bidder for the purpose of satisfying the lien on the same for the costs and charges in the notice set forth. The notice shall be [published] given once a week for four consecutive weeks [(four insertions)]. If the charges and costs, together with [such] any additional expenses [as] that may have been incurred since the first [publication of the] notice, are not paid before the date stated in the notice, the cattle or horses [shall] on that date shall be sold and all charges and other expenses shall be satisfied out of the proceeds of the sale and the balance paid to the owner or owners of the cattle or horses. If no claim is made for any balance within sixty days after the date of sale, the [same] balance shall be deposited in the treasury of the State as a government realization and all private rights therein and thereto shall be thereafter forever barred.”

SECTION 49. Section 183C-4, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Whenever any landowner or government agency whose property will be directly affected makes an application to change the boundaries or land uses of any zone, or to establish a zone with certain land uses, or where the department proposes to make the change or changes itself, the change or changes shall be put in the form of a proposed rule by the applicant and the department shall then give public notice thereof [by publication at least three times in] during three successive weeks [in a newspaper of general circulation in the State] statewide and in the county in which the property is located. The notice shall be given not less than thirty days prior to the date set for the hearing, and shall state the time and place of the hearing and the changes proposed. Any proposed rules and the necessary maps shall be made available for inspection by interested members of the public. The hearing shall be held in the county in which the land is located and may be delegated to an agent or representative of the board as may otherwise be provided by law and in accordance with rules adopted by the board. For the purpose of its public hearing or hearings, the board [shall have the power to] may summon witnesses, administer oaths, and require the giving of testimony.”

SECTION 50. Section 183C-6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The department shall hold a public hearing in every case involving the proposed use of land for commercial purposes, at which hearing interested persons shall be afforded a reasonable opportunity to be heard. [Notice] Public notice of the time and place of the hearing shall be [published] given at least once [in a newspaper of general circulation in the State] statewide and in the county in which the property is located. The notice shall be given not less than twenty days prior to the date set for the hearing. The hearing shall be held in the county in which the land is located and may be delegated to an agent or representative of the board as may otherwise be provided by law and in accordance with rules adopted by the board. For the purposes of its public hearing or hearings, the department shall have the power to summon

witnesses, administer oaths, and require the giving of testimony. As used in this [paragraph,] subsection, the term “commercial purposes” shall not include the use of land for utility purposes.”

SECTION 51. Section 190D-11, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The department shall process the conservation district use application pursuant to chapter 183C and rules adopted under this chapter. Within sixty days after the submission of a conservation district use application with a request for a lease for marine activities in state marine waters or submerged lands and the receipt of the related environmental assessment or environmental impact statement, the department shall issue a public notice that the application has been received. The public notice shall describe the marine waters or submerged lands, or both, for which application has been made, the nature of the exclusive use sought, and the purpose for which the application has been made. The notice shall be [published] given on three separate days [in a newspaper of general distribution in the State] statewide and in the county nearest the marine waters or submerged lands for which application has been made. The public notice shall invite public comment.”

SECTION 52. Section 195-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The department, with at least twenty days public notice, shall conduct one or more public hearings before terminating state funding for a management plan approved by the board under the natural area partnership program, requesting the governor to revoke or modify an executive order that sets aside lands for the reserves system, or prior to the designation of the following types of lands into the reserves system:

- (1) State lands under the jurisdiction of the department;
- (2) State lands that are removed from other uses or modified by the governor through an executive order that sets aside land for the natural area reserves system;
- (3) Lands acquired by eminent domain pursuant to chapter 101; and
- (4) State lands proposed by the governor for inclusion into the reserves system, as provided in section 171-11.

The notice shall be [published in a newspaper of general circulation] given in the county where the proposed natural area reserve or natural area partnership is located and also [in a newspaper of general circulation in the State.] statewide. The notice shall contain, but not be limited to, the time and place of the hearing, the location of the land, and the proposed changes.”

SECTION 53. Section 199-7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Any equipment, article, instrument, aircraft, vehicle, vessel, business records, or natural resource seized is subject to forfeiture pursuant to chapter 712A. Notwithstanding section 712A-16 or any other law to the contrary, any natural resource forfeited shall be turned over to the department of land and natural resources for disposition as determined by that department and may be destroyed, if illegal, or may be kept and retained and utilized by the department of land and natural resources or any other state agency, or if not needed or required by the department or other state agency, may be sold at public auction in the judicial circuit in which it was seized, the auction to be held once annually at a place and time to be designated by the department and public notice thereof to be [published in a newspaper of general circulation] given within the judicial circuit at least once before the auction, the first [publication] notice to be not less than twenty days prior

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to the auction. The auction shall be conducted by a person other than an employee of the department but designated by the department.”

SECTION 54. Section 200-43, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§200-43]]~~ **Public auction.** If the vessel is not repossessed within twenty days after the mailing of the notice, the vessel shall be disposed of by public auction, through oral tenders, or by sealed bids, after public ~~[advertisement]~~ notice has been ~~[made once in a newspaper of general circulation;]~~ given at least once; provided that the public auction shall not be held less than five days after the ~~[publication of the advertisement.]~~ notice is given. Where no bid is received, the vessel may be sold by negotiation, ~~disposed of as junk, or donated to any governmental agency.~~”

SECTION 55. Section 200-49, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§200-49]]~~ **Disposition of derelict vessel.** The chairperson may cause a derelict vessel to be immediately taken into custody. Upon taking custody of a derelict vessel the chairperson shall concurrently:

- (1) ~~[Publish a]~~ Give public notice of intended disposition[, once, in a newspaper of general circulation];
- (2) When possible, post a notice of intended disposition on the vessel; and
- (3) Serve a duplicate original of the notice of intended disposition by certified mail, return receipt requested on:
  - (A) The registered owner of the vessel, if known, at the registered owner’s last known address or the address on record with the United States Coast Guard; and
  - (B) All lien holders who have properly filed a financing statement, referencing the name of the registered owner, in the bureau of conveyances or who are shown on the records of the department or United States Coast Guard.

If the vessel is not repossessed within twenty days after the ~~[publication]~~ giving or mailing of the notice, whichever occurs later, the vessel may be disposed of by negotiated sale except that, when two or more purchasers indicate an interest in purchasing the vessel, the vessel will be sold at public auction to the highest bidder. If no purchaser expresses a desire to purchase the vessel, the vessel may be destroyed.”

SECTION 56. Section 201G-73, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§201G-73]]~~ **Foreclosure of lien, notice, etc.** The lien of the corporation upon personal property which has been taken and retained by it as provided in section 201G-72 may be foreclosed by the corporation by selling the same at public auction:

- (1) After first mailing by United States mail, postage prepaid, a notice of the foreclosure, addressed to the tenant who owns, or was in possession of, the personal property, at the tenant’s last address shown on the records of the corporation, stating that, unless the charge or charges then due and owing from the tenant to the corporation are paid within ten days from the time of mailing the notice, the personal property will be sold at public auction; and



- (2) After first [publishing a] giving public notice of the foreclosure and sale at least two times [in a newspaper of general circulation] in the county in which the personal property is located. Each notice shall contain a brief description of the personal property; the name of the tenant, if known; the name of the owner of the personal property, if known; the amount of the charge or charges; and the time and place of the sale. Notices of several foreclosures and sales may be combined in one notice; and whenever so combined and [published,] given, the expenses of [advertising] notice and sale shall be a statutory lien upon the property described in the notice in a ratable proportion according to the amount received for each lot of property so [advertised] noticed for sale.

If the tenant fails to pay to the corporation within ten days after the mailing of the notice of foreclosure the charge or charges, the corporation may sell the property at public auction at the time and place stated in the notice, or at a time or times or place or places to which the sale may be postponed or adjourned at the time and place stated in the notices, and may apply the proceeds thereof to the payment of the charge or charges and the expenses of [advertising] notice and sale. The balance, if any remaining, shall be paid over to the tenant who formerly owned, or was in possession of, the property. If the balance is not claimed by the tenant within thirty days after the sale, then the balance shall be paid over to the director of finance and it shall be kept by the director in a special deposit for a period not to exceed six months. If claimed by the tenant during that period it is paid over to the tenant. If no claim shall be made during the period, the sum shall become a government realization and be paid into the general fund.”

SECTION 57. Section 201G-76, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§201G-76]]~~ **Lien on abandoned personalty, sale, etc.** Whenever the corporation has in its possession for four months after the termination of any residence or occupancy herein mentioned any personal property that has been left in or about any housing project by any person who formerly resided in, or occupied a room, dwelling accommodation, living quarters, or space in the housing project, the corporation may sell the same at public auction and apply the proceeds thereof to the payment of its charges for storage of the personal property, and for [advertising] public notice and sale, and to the payment of other amounts, if any, then due and owing to it from the former resident or occupant for rent or for any utility or service. Before any sale is made, the corporation shall first [publish a] give public notice of the time and place of sale at least two times [in a newspaper of general circulation] in the county in which the personal property is located. The notice shall contain a brief description of the property; the name, if known, of the former resident or occupant who so left the property in or about the housing project; the amount of the charges for storage, if any, and the indebtedness, if any; and the time and place of the sale. The charges for storage, if any, and for [advertising] notice and sale, and the indebtedness, if any, shall be a lien upon the personal property. Notices of several sales may be combined and [published] given in one notice, and whenever so combined and [published] given the expenses of [advertising] notice and sale shall be a lien and shall be satisfied in ratable proportion according to the amount received for each lot of property so [advertised] noticed for sale.”

SECTION 58. Section 201G-122, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

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“(a) The corporation may enter into contracts with any eligible bidder to provide for the construction of a housing project or projects. [Any such] Each contract shall provide that the housing project or projects shall be placed under the control of the corporation, as soon as the unit is available for occupancy. [Any such] Each contract [shall] also shall provide that the capital stock of the mortgagor (where the mortgagor is a corporation) be transferred to the corporation, when the housing project or projects have been completed. [Any such] Each contract shall contain [such] terms and conditions [as] that the corporation may determine to be necessary to protect the interests of the State. [Any such] Each contract shall provide for the furnishing by the contractor of a performance bond and a payment bond with sureties satisfactory to the corporation, and the furnishings of [such] bonds shall be deemed a sufficient compliance with the provisions of law and no additional bonds shall be required under law. Before the corporation shall enter into any contract as authorized by this section for the construction of a housing project or projects, it shall invite the submission of competitive bids after [advertising] giving public notice in the manner prescribed by law.”

SECTION 59. Section 201G-130, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The corporation, any department of the State, or any county housing agency maintaining restrictions, through contract, deed, other instrument, or by rule, shall notify purchasers of any substantial change in restrictions made by law, ordinance, rule, or regulation not more than one hundred eighty days after a change in restrictions, and the notice shall clearly state the enacted or proposed new provisions, the date or dates upon which they are to be effective, and offer to each purchaser of real property constructed and sold prior to [such] the effective date an opportunity to modify the existing contract or other instrument to incorporate the most recent provisions. The public notice shall be [published] given at least three times [in a newspaper of general circulation] in the State for state agencies and at least three times in a county [newspaper] for county agencies.”

SECTION 60. Section 205-4, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Any other provision of law to the contrary notwithstanding, notice of the hearing together with a copy of the petition shall be served on the county planning commission and the county planning department of the county in which the land is located and all persons with a property interest in the land as recorded in the county’s real property tax records. In addition, notice of the hearing shall be mailed to all persons who have made a timely written request for advance notice of boundary amendment proceedings, and public notice shall be [published] given at least once [in a newspaper] in the county in which the land sought to be redistricted is situated as well as once [in a newspaper of general circulation in the State] statewide at least thirty days in advance of the hearing. The notice shall comply with [the provisions of] section 91-9, shall indicate the time and place that maps showing the proposed district boundary may be inspected, and further shall inform all interested persons of their rights under subsection (e) [of this section].”

SECTION 61. Section 205-5.2, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) After the board has completed a county-by-county assessment of all areas with geothermal potential or after any subsequent update or review, the board shall compare all areas showing geothermal potential within each county, and shall propose areas for potential designation as geothermal resource subzones based upon a preliminary finding that the areas are those sites which best demonstrate an

acceptable balance between the factors set forth in subsection (b). Once [such] a proposal is made, the board shall conduct public hearings pursuant to this subsection, notwithstanding any contrary provision related to public hearing procedures. Contested case procedures are not applicable to these hearings.

- (1) Hearings shall be held at locations which are in close proximity to those areas proposed for designation. A public notice of hearing, including a description of the proposed areas, an invitation for public comment, and a statement of the date, time, and place where persons may be heard shall be [published] given and mailed no less than twenty days before the hearing. The notice shall be [published] given on three separate days [in a newspaper of general circulation] statewide and in the county in which the hearing is to be held. Copies of the notice shall be mailed to the department of business, economic development, and tourism, to the planning commission and planning department of the county in which the proposed areas are located, and to all owners of record of real estate within, and within one thousand feet of, the area being proposed for designation as a geothermal resource subzone. The notification shall be mailed to the owners and addresses as shown on the current real property tax rolls at the county real property tax office. Upon [such] that action, the requirement for notification of owners of land is completed. For the purposes of this subsection, notice to one co-owner shall be sufficient notice to all co-owners[.];
- (2) The hearing shall be held before the board, and the authority to conduct hearings shall not be delegated to any agent or representative of the board. All persons and agencies shall be afforded the opportunity to submit data, views, and arguments either orally or in writing. The department of business, economic development, and tourism and the county planning department shall be permitted to appear at every hearing and make recommendations concerning each proposal by the board[.]; and
- (3) At the close of the hearing, the board may designate areas as geothermal resource subzones or announce the date on which it will render its decision. The board may designate areas as geothermal resource subzones only upon finding that the areas are those sites which best demonstrate an acceptable balance between the factors set forth in subsection (b). Upon request, the board shall issue a concise statement of its findings and the principal reasons for its decision to designate a particular area.”

SECTION 62. Section 205A-29, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The authority in each county, upon consultation with the central coordinating agency, shall adopt rules under chapter 91 setting the special management area use permit application procedures, conditions under which hearings must be held, and the time periods within which the hearing and action for special management area use permits shall occur. The authority shall provide for adequate notice to individuals whose property rights may be adversely affected and to persons who have requested in writing to be notified of special management area use permit hearings or applications. The authority shall also provide [written] public notice [once in a newspaper of general circulation in the State] statewide at least twenty days in advance of the hearing. The authority may require a reasonable filing fee which shall be used for the purposes set forth herein.

Any rule adopted by the authority shall be consistent with the objectives, policies, and special management area guidelines provided in this chapter. Action on

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the special management permit shall be final unless otherwise mandated by court order.”

SECTION 63. Section 206-5, Hawaii Revised Statutes, is amended to read as follows:

“**§206-5 Declaration of development areas.** Whenever the board of land and natural resources, after due notice and public hearing, the time and place of which have been duly [advertised in a newspaper of general circulation] given by public notice in the city and county of Honolulu on at least three different days, the last [publication] notice being not less than five days before the date of hearing, finds that in any locality on the island of Oahu an acute shortage of residential fee simple property exists and that the shortage of [such] residential fee simple holdings cannot practicably be alleviated within the reasonably near future by means other than those provided under this chapter, the board may declare a suitable area, not less than ten contiguous acres in extent, as a development area. The development area shall be reasonably accessible to persons in the locality and shall consist of lands suitable for a development project. Any [such] finding of fact, if supported by a preponderance of evidence, shall be conclusive in any suit, action, or proceeding.

All development areas shall be compatible with any general plan for the long-range development of land in the political subdivision concerned under the terms of chapter 201, part II, and shall conform to and with all subdivision and zoning ordinances and requirements of the political subdivision.”

SECTION 64. Section 206-9, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Land disposed of by the board. To be eligible to purchase or lease a residence lot from the board, the buyer shall furnish satisfactory evidence to the board, under oath, and otherwise as required by the board, that the buyer:

- (1) Is a citizen of the United States or a declarant alien who has resided in the State for a period of five years or more;
- (2) Is at least eighteen years of age;
- (3) Is a bona fide resident of the State and has a bona fide intent to reside in the development area concerned, if successful in purchasing or leasing a lot in the area under this chapter; and
- (4) Has a gross income sufficient to meet the cost of the land being disposed of by the board. The board shall develop policies whereby those most deserving of housing shall be given preference. In developing the policies, the board shall consider the applicant’s household income, the number of dependents, and [such] other factors [as] that the board may deem pertinent.

Any person whom the board finds to be within one of the following classes, shall not be eligible to become an original purchaser or lessee of a resident lot, to wit:

- (A) A person who oneself or whose husband or wife or both (when husband and wife are living together) owns or own in fee simple lands suitable for residential purposes within the political subdivision and in or reasonably near the place of residence or place of business of the person; and
- (B) A person who oneself or whose husband or wife (when husband and wife are living together) has pending an unrefused application to purchase a lot in a development area under this chapter from the board.

Any person, firm, association, or corporation may purchase business lots within a development project for business necessary to service the project. The lots shall be sold at public auction to the highest bidder for cash.

The board shall require all applicants for the purchase or lease of residence lots to make application therefor under oath, and may require additional testimony or evidence under oath in connection with any application. The determination of any applicant's eligibility under this chapter by the board shall be conclusive as to all persons thereafter dealing with the property; but the making of any false statement knowingly by the applicant or other person to the board in connection with any application shall constitute perjury and be punishable as [such.] perjury.

When a development project or projects has or have been sufficiently completed to be suitable for disposition to individual purchasers or lessees, the board shall sell or lease the lots therein to eligible purchasers or lessees and shall give public notice of the disposition [by publication in at least two newspapers of general circulation] on the island of Oahu. The notice shall state in general terms the size, location, and prices or rental of lots to be sold or leased, the terms of sale or lease, and the last date on which application will be received by the board, which date shall not be less than thirty days after the first [publication of the] notice. The notice shall also state the times and places at which more detailed information with respect to the sale or lease may be secured by interested persons. Not more than one lot shall be sold or leased to each applicant.

The purchaser at the purchaser's option may pay the purchase price in full on delivery of a deed or pay not less than ten per cent of the purchase price and execute with the board an agreement of sale under the terms of which the unpaid balance is to be paid in monthly installments and over [such] a period [as] that the board determines, with interest on unpaid balances at a rate not to exceed six and one-half per cent, payable monthly, deed to be delivered on final payment; provided that not less than one-half of one per cent on account of principal shall be required by the agreement to be paid each month. Taxes shall be prorated as of the date of delivery of deed in the case of a cash sale and as of the date of execution of the agreement of sale in the case of a sale in other cases. Each agreement of sale shall provide that the whole or any part of the unpaid balance of the purchase price plus accrued interests may be paid at any time."

SECTION 65. Section 206-29, Hawaii Revised Statutes, is amended to read as follows:

**"§206-29 Form and sale of bonds.** The bonds of the board of land and natural resources shall be authorized by resolution and may be issued in one or more series and shall bear [such] a date or dates, mature at [such] a time or times, not exceeding sixty years from the date thereof, bear interest at [such] a rate or rates, not exceeding six per cent a year, be in [such] a denomination or denominations, be in [such] a form either coupon or registered, carry [such] conversion or registration privileges, have [such] a rank or priority, be executed in [such] a manner, be payable in [such] a medium of payment, at [such] a place or places, and be subject to [such] terms or redemption (with or without premium) [as] that the resolution, its trust indenture, or mortgage may provide.

The bonds shall be sold at not less than par at public sale held after public notice [published once] given at least five days prior to the sale [in a newspaper having a general circulation in the State;] statewide; provided that the bonds may be sold at not less than par to the federal government at private sale without any public [advertisement.] notice.

If any member or officer of the board whose signature appears on any bond or coupon ceases to be a member or official before the delivery of [such] a bond, the

member's or officer's signature [shall], nevertheless, shall be valid and sufficient for all purposes, the same as if [such] the member or officer had remained in office until its delivery. Any provision of any law to the contrary notwithstanding, all bonds issued pursuant to this chapter shall be fully negotiable.

In any suit, action, or proceedings, involving the validity or enforcement of any bond of the board or the security therefor, any [such] bond, reciting in substance that it has been issued by the board to aid in financing a development project, shall be conclusively deemed to have been issued for a development project, and the project shall be conclusively deemed to have been planned, located, and constructed in accordance with the purposes and provisions of this chapter.”

SECTION 66. Section 231-25, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The following rules are applicable to the levy as provided for in paragraph (a)(2) [of this section]:

- (1) Seizure and sale of property. The term “levy” as used in this section includes the power of distraint and seizure by any means. A levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the director or the director's representative may levy upon property or right<sup>2</sup> to property, the director may seize and sell [such] the property or rights to property (whether real or personal, tangible or intangible)[.];
- (2) Successive seizures. Whenever any property or right to property upon which levy has been made is not sufficient to satisfy the claim of the State for which levy is made, the director or the director's representative [may], thereafter, and as often as may be necessary, may proceed to levy in like manner upon any other property liable to levy of the person against whom [such] a claim exists, until the amount due from the person, together with all expenses, is fully paid[.];
- (3) Surrender of property subject to levy.
  - (A) Requirement. Any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made [shall], upon demand of the director or the director's representative, shall surrender [such] the property or rights (or discharge [such] the obligation) to the director or the director's representative, except [such] that part of the property or rights as is, at the time of [such] the demand, subject to an attachment or execution under any judicial process[.];
  - (B) Extent of personal liability. Any person who fails or refuses to surrender property or rights to property, subject to levy, upon demand by the director or the director's representative, shall be liable in the person's own person and estate to the State in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of taxes for the collection of which [such] the levy has been made, together with costs and interest on [such] the sum at the rate of eight per cent a year from the date of [such] the levy. Any amount (other than costs) recovered under this subparagraph shall be credited against the tax liability for the collection of which [such] the levy was made[.];
  - (C) Penalty for violation. In addition to the personal liability imposed by subparagraph (B), if any person required to surrender property or rights to property fails or refuses to surrender [such] the property or rights to property without reasonable cause, [such] the person shall be liable for a penalty equal to fifty per cent of

- the amount recoverable under subparagraph (B). No part of [such] the penalty shall be credited against the tax liability for the collection of which [such] the levy was made[.];
- (D) Effect of honoring levy. Any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made who, upon demand by the director or the director's representative, surrenders [such] the property or rights to property (or discharges [such] the obligation) to the director or the director's representative shall be discharged from any obligation or liability to the delinquent taxpayer with respect to [such] the property or rights to property arising from [such] the surrender or payment[.]; and
- (E) Person defined. The term "person," as used in subparagraph (A), includes an officer or employee of a corporation or a member or employee of a partnership, who as [such] an officer, employee, or member is under a duty to surrender the property or rights to property, or to discharge the obligation[.];
- (4) Production of books. If a levy has been made or is about to be made on any property, or right to property, any person having custody or control of books or records, containing evidence or statements relating to the property or right to property subject to levy, [shall,] upon demand of the director or the director's representative, shall exhibit [such] those books or records to the director or the director's representative[.];
- (5) Property exempt from levy. Notwithstanding any other law of the State, no property or rights to property shall be exempt from levy other than the following:
- (A) Wearing apparel and school books. [Such] Those items of wearing apparel and [such] those school books [as] that are necessary for the taxpayer or for members of the taxpayer's family[.];
- (B) Fuel, provisions, furniture, and personal effects. If the taxpayer is the head of a family, so much of the fuel, provisions, furniture, and personal effects in the taxpayer's household, and of the arms for personal use, livestock, and poultry of the taxpayer, as does not exceed \$500 in value[.];
- (C) Books and tools of a trade, business, or profession. So many of the books and tools necessary for the trade, business, or profession of the taxpayer as do not exceed in the aggregate \$250 in value[.];
- (D) Unemployment benefits. Any amount payable to an individual with respect to the individual's unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States or the State[.]; and
- (E) Undelivered mail. Mail, addressed to any person, which has not been delivered to the addressee[.];
- and
- (6) Sale of the seized property.
- (A) Notice of sale. The director shall take possession and keep the levied property until the sale. After taking possession, the director shall sell the taxpayer's interest in the property at public auction after first giving fifteen days' public notice of the time and place of the sale [by publication at least once in a newspaper, published] in the district, [or] and by posting the notice in at least three public places in the district where the sale is to be held[.];

- (B) Assistance in seizure and sale. The director may require the assistance of any sheriff or authorized police officer of any county to aid in the seizure and sale of the levied property. The director may further retain the services of any person competent and qualified to aid in the sale of the levied property, provided that the consent of the delinquent taxpayer is obtained. Any sheriff or the person so retained by the director shall be paid a fair and reasonable fee but in no case shall the fee exceed ten per cent of the gross proceeds of the sale. Any person other than a sheriff so retained by the director to assist the director may be required to furnish bond in an amount to be determined by the director. The fees and the cost of the bond shall constitute a part of the costs and expenses of the levy[.];
- (C) Time and place of sale. The sale shall take place within thirty days after seizure; provided that by public announcement at the sale, or at the time and place previously set for the sale, it may be extended for one week. Any further extension of the sale shall be with the consent of the delinquent taxpayer. The sale [shall], in any event, shall be completed within forty-five days after seizure of the property[.];
- (D) Manner and conditions of sale. Sufficient property shall be sold to pay all taxes, penalties, interest, costs, and expenses. On payment of the price bid for any property sold, the delivery thereof with a bill of sale from the director shall vest the title of the property in the purchaser. No charge shall be made for the bill of sale. All surplus received upon any sale after the payment of the taxes, penalties, interest, costs, and expenses, shall be returned to the owner of the property sold, and until claimed shall be deposited with the department subject to the order of the owner. Any unsold portion of the property seized may be left at the place of sale at the risk of the owner[.]; and
- (E) Redemption of property. If the owner of the property seized desires to retain or regain possession thereof, the owner may give a sufficient bond with surety to produce the property at the time and place of sale, or pay all taxes, penalties, interest, costs, and expenses.”

SECTION 67. Section 243-5, Hawaii Revised Statutes, is amended to read as follows:

“§243-5 County fuel tax. The amount of the “county of Hawaii fuel tax”, “city and county of Honolulu fuel tax”, “county of Maui fuel tax”, and “county of Kauai fuel tax”, respectively, shall be determined by resolution of the county or the city council of each county adopted in the manner provided by law relating to resolutions involving the expenditure of public money. The amount fixed by the resolution may be, per gallon, one or more cents or a fraction of a cent or both, or it may be zero. No [such] resolution shall be adopted until the county or the city council shall conduct a public hearing on the amount of tax proposed. [Notice] Public notice of [such] the hearing shall be [published in a newspaper of general circulation within the county] given in the county at least twice within a period of thirty days immediately preceding the date of hearing. If the resolution is adopted, it shall take effect on the first day of the second month following the date of adoption of the resolution. The county or the city council shall notify the department of



taxation of any county fuel tax changes within ten days after the resolution is adopted.

Until and unless otherwise provided by resolution adopted as above provided, the amount of the "county of Hawaii fuel tax" shall be for the period July 1, 1955, to June 30, 1957, 1 cent per gallon and thereafter zero, the amount of the "city and county of Honolulu fuel tax" shall be 2-1/2 cents per gallon, the amount of the "county of Maui fuel tax" shall be for the period July 1, 1955, to June 30, 1957, 3 cents per gallon and thereafter 2 cents per gallon, and the amount of the "county of Kauai fuel tax" shall be for the period July 1, 1955, to June 30, 1957, 3 cents per gallon and thereafter 2 cents per gallon."

SECTION 68. Section 246-40, Hawaii Revised Statutes, is amended to read as follows:

**"§246-40 Returns, made when; form; open to public.** Whenever the department of taxation finds that the filing of returns under this paragraph is advisable for the making of assessments and so orders, the assessor shall give, to the taxpayers of the assessor's district during the month of December of the year [such] the order is made, public notice [(by publication thereof, in English,] at least three times on different days during the month, [in a newspaper of general circulation] in [such] the district[, published in the English language)] requiring [such] the taxpayers to file with the assessor, on or before January 15 of the succeeding year, returns in the manner and form required by this section. After [such publication of] the notice, every person owning, or having possession, custody, or control of, real property in the district, whether entitled to exemption or not, [shall,] during the month of January, shall file upon forms prescribed by the department and in the manner required by [such] the forms, a return signed as provided in section 231-15 setting forth the description and location of all real property in the district belonging to [such] the person or of which the person had possession, custody, or control on January 1, and setting forth the taxpayer's opinion of the fair market value thereof as of [such] January 1. It shall be sufficient to describe the person's property by setting forth the location and a brief description in sufficient detail to identify the property.

Whenever the department shall determine that there are not sufficient evidences of value to form the basis of a sound appraisal, for assessment purposes, of the value of the real property or real properties, or portions thereof, of any taxpayer [it may,] upon notice of not less than thirty days, it may require the taxpayer to file a return as described in the foregoing paragraph.

All returns made under this section shall be open to inspection by the public, and shall be admissible in evidence against the person making the return, in any state court in any action wherein the value of the real property, or portion thereof, covered by the return, may be in dispute.

Returns made under this section shall be taken into consideration by the tax assessor in making appraisals for assessment purposes; the opinion of any taxpayer as to fair market value shall not be binding upon the assessor, but no taxpayer shall be deemed to be aggrieved by any assessment made upon the taxpayer's property which is based upon the opinion of value set forth in the taxpayer's return unless the taxpayer shows lack of uniformity or inequality as set forth in section 232-3. The opinion of value shall constitute a rebuttable presumption that the fair market value of the real property on the date of [such] the return was not greater than the value stated in [such] the return in any subsequent proceeding brought to condemn the property or any part thereof for public purposes.

Failure to file a return required under this section shall render the taxpayer liable for payment of an added tax as defined in and prescribed by section 231-39(b)(1)."

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SECTION 69. Section 246-43, Hawaii Revised Statutes, is amended to read as follows:

**“§246-43 Notice of assessments; addresses of persons entitled to notice.** On or before March 15 preceding the tax year, the director of taxation shall give notice of the assessment for the tax year against each known owner, by personal delivery to the owner or by mailing to the owner on or before [such] that date postage prepaid and addressed to the owner at the owner’s last known place of residence or address a written notice identifying the property involved by the tax key and the general class established in accordance with section 246-10(d) and setting forth separately the valuation placed upon buildings, and the valuation placed upon all other real property, exclusive of buildings, determined pursuant to section 246-10, the exemption, if any, and the net assessed value of the property.

In addition to the foregoing, the assessor of each district shall in each year give notice of the assessments in the assessor’s district for the year by public notice [(by publication thereof in English) at least three times on different days during the month of March of [such] that year [in a newspaper of general circulation], in the district[, published in the English language]] of a time when (which shall be not less than a period of ten days prior to March 31 preceding the tax year) and of a place where the records of taxable properties maintained in the district showing all assessments made for the district may be inspected by any person for the purpose of enabling the person to ascertain what assessments have been made against the person or the person’s property and to confer with the assessor so that any errors may be corrected before the filing of the assessment list.”

SECTION 70. Section 246-56, Hawaii Revised Statutes, is amended to read as follows:

**“§246-56 Tax liens; foreclosure without suit, notice.** All real property on which a lien for taxes exists may be sold by way of foreclosure without suit by the tax collector, and in case any lien, or any part thereof, has existed thereon for three years, shall be sold by the tax collector at public auction to the highest bidder, for cash, to satisfy the lien, together with all interest, penalties, costs, and expenses due or incurred on account of the tax, lien, and sale, the surplus, if any, to be rendered to the person thereto entitled. The sale shall be held at any public place proper for sales on execution, after public notice [published] given at least once a week for at least four successive weeks immediately prior thereto [in any newspaper with a general circulation of at least 60,000 published in the State and any newspaper of general circulation published and distributed] statewide and in the taxation district wherein the property to be sold is situated[, if there be a newspaper published in the taxation district]. If the address of the owner is known or can be ascertained by due diligence, including an abstract of title or title search, the tax collector shall send to each owner notice of the proposed sale by registered mail, with request for return receipt. If the address of the owner is unknown, the tax collector shall send a notice to the owner at the owner’s last known address as shown on the records of the department of taxation. The notice shall be deposited in the mail at least [45] forty-five days prior to the date set for the sale. The notice shall also be posted for a like period in at least three conspicuous places within [such] the taxation district, and if the land is improved one of the three postings shall be on the land.”

SECTION 71. Section 249-10, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) All vehicles seized and sealed shall remain at the place of seizure or at [such] any other place [as] that the director of finance may direct, at the expense and

risk of the owner. If the owner of the vehicle fails to redeem it within ten days after seizure, the vehicle may be sold by the director of finance at public auction to the highest bidder for cash, after giving ten days public notice [in a newspaper of general circulation published] in the county[, or] and by posting notices in at least three public places in the district where the vehicle was seized; provided that the requirements of public auction may be waived when the appraised value of any vehicle is less than \$250 as determined by the director of finance or authorized representative, in which case the vehicle may be disposed of in the same manner as when a vehicle is put up for public auction and for which no bid is received. The amount realized at the sale, less the amount of the tax and penalty due, together with all costs incurred in [advertising,] giving public notice, storing, and selling the vehicle and all other charges incident to the seizure and sale, shall be paid to the owner of the vehicle. If no claim for the surplus is filed with the director of finance within sixty days from the date of the sale, the surplus shall be paid into the county treasury as a government realization and all claim to [such] that sum shall thereafter be forever barred.”

SECTION 72. Section 249-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The council shall determine the rate and the minimum tax at which all vehicles and motor vehicles in each respective county shall be taxed as provided by section 249-2. In making the determination, the rate and minimum tax on trucks or noncommercial motor vehicles shall be in accordance with subsection (b). The rate and minimum tax shall be established by ordinance, provided that prior to final action thereon a public hearing shall be held on the proposed rate. [Notice] Public notice of the time and place of the hearing shall be [published] given at least ten days prior to the hearing [in a newspaper of general circulation] in the county. After the public hearing the council may fix the rate and the minimum tax at any amount deemed necessary, but [such] the rate and [such] the minimum shall not be higher than that originally proposed when the notice of public hearing was [published.] given. Any rate and minimum tax so established shall be effective as of January 1 of the year following the date of enactment of the ordinance.”

SECTION 73. Section 249-15, Hawaii Revised Statutes, is amended to read as follows:

“**§249-15 Seizure and sale.** The directors of finance, any person authoritatively acting on behalf of the director of finance, or any member of a police force of the several counties of the State may seize any bicycle or moped liable for the payment of the required fees or which has no tag or decal affixed as required by section 249-14, and may hold the bicycle or moped for a period of ten days, during which time it shall be subject to redemption by its owner on payment of the fee due and a penalty of \$1. All bicycles and mopeds not so redeemed shall be sold by the county chief of police or director of finance or their authorized representative, at public auction after first giving five days public notice of the time and place of sale [by advertisement in a newspaper of general circulation] in the county where the sale is to be held. Sale shall be made for the best price obtainable, which amount shall be forthwith paid over to the director of finance, accompanied by a statement containing a description of the bicycles or mopeds, their serial number, makes, and any other marks of identification. The director of finance [shall], after deducting from the amount so received the amount of the fee and penalty due and costs of [advertising,] giving public notice, shall pay any surplus to the previous registered owners of the bicycles or mopeds. If at the expiration of ninety days the previous registered owners remain unknown, the surplus shall be paid into the treasury of the

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county, as a government realization, and all claims to [such] the sums shall be forever barred.”

SECTION 74. Section 261-7.5, Hawaii Revised Statutes, is amended by amending subsections (i) and (j) to read as follows:

“(i) If the owner or operator of an impounded aircraft does not:

(1) Request an administrative hearing within thirty days of the department’s impounding of the aircraft; or  
(2) Pay the department all cost and expenses of impounding the aircraft and the charges and fees due and owing within fifteen days of a finding of probable cause that [said] the charges and fees are due and owing, the aircraft shall be disposed of by public auction, through oral tenders, or by sealed bids, after public [advertisement has been made once in a newspaper of general circulation in the State;] notice has been given; provided that the public auction shall not be held less than five days after [the publication of the advertisement.] public notice is given. Where no bid is received, the aircraft may be sold by negotiation, disposed of as junk, or donated to any governmental agency.

(j) Public auction shall not be required when the appraised value of any aircraft, as determined by an independent appraiser who has had at least one year of experience in the sale or purchase of aircraft, is less than \$100. Upon that determination and after public [advertisement has been made once in a newspaper of general circulation in the State,] notice is given, the director may sell the aircraft by negotiation, dispose of it as junk, or donate the aircraft to any governmental agency.”

SECTION 75. Section 261-17.6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Any vehicle not repossessed within the time limits provided in subsection (b) after compliance by the department with the notice requirements provided by that subsection, shall be disposed of by public auction, through oral tenders, or by sealed bids, after public [advertisement has been made once in a newspaper of general circulation;] notice has been given; provided that the public auction shall not be held less than five days after [the publication has been made.] public notice has been given. Where no bid is received, the vehicle may be either sold by negotiation, disposed of or sold as junk, or donated to any governmental agency; and further provided that the requirements of public auction may be waived when the appraised value of any vehicle is less than \$100 as determined by an independent appraiser who has had at least one year of experience in the sale or purchase of motor vehicles as a licensed motor vehicle salesperson. In that event the vehicle [may], after public [advertisement] notice has been [made once in a newspaper of general circulation,] given, may be disposed of in the same manner as when a vehicle is put up for public auction and for which no bid is received.”

SECTION 76. Section 261-17.7, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§261-17.7]]~~ **Lost and found money or property at airports.** (a) All money or property found at an airport owned or controlled by the department shall be reported or delivered by the finder to the airport lost and found, and when so delivered shall be held by the department for forty-five days or until claimed by some person who establishes title or right of custody thereto to the satisfaction of the department. In the event of [such] the establishment of title or right of custody, the money or property shall be delivered to the claimant by the director or the director’s agent. If within forty-five days no claimant establishes a right to the money or

property, the money or property shall be returned to the person who delivered it to the airport lost and found; provided that if the person who delivered it to the airport lost and found fails to claim the money or property within thirty days after being notified by the director, the director shall deposit the money into the state treasury to the credit of the airport revenue fund or shall dispose of the property by public auction.

(b) At least once annually, the director shall [place a] give public notice [in a newspaper of general circulation] giving details as to time and place of the auction and giving notice to all persons interested or claiming the property that unless claims are made by persons who can provide satisfactory proof of ownership before a specified date, the property will be sold at public auction to the highest bidder. On the day and at the place specified in the notice, all property for which no satisfactory proof of ownership is made shall be sold by auction by or under the direction of the director.

If any property which is of a perishable nature or unreasonably expensive to keep or safeguard remains unclaimed at the airport, the director may sell that property at public auction, at [such] a time and after [such] notice [as] that is reasonable under the circumstances. The director shall immediately after the sale of any property pay to the airport revenue fund all moneys received by the director upon sale.

(c) For the purpose of this section, notice by regular mail to the last known address of the person who delivered the money or property to the airport lost and found shall be deemed sufficient.”

SECTION 77. Section 261-71, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) If the aircraft is not repossessed within twenty days after the mailing of the notice, the aircraft shall be disposed of by public auction, through oral tenders, or by sealed bids, after public [advertisement has been made once in a newspaper of general circulation;] notice has been given; provided that the public auction shall not be held less than five days after [the publication of the advertisement.] public notice is given. Where no bid is received, the aircraft may be sold by negotiation, disposed of as junk, or donated to any governmental agency.”

SECTION 78. Section 261-71, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) Public auction shall not be required when the appraised value of any aircraft, as determined by an independent appraiser who has had at least one year of experience in the sale or purchase of aircraft, is less than \$100. Upon that determination and after public [advertisement has been made once in a newspaper of general circulation,] notice has been given, the director of transportation may sell the aircraft by negotiation, dispose of it as junk, or donate the aircraft to any governmental agency.”

SECTION 79. Section 261-73, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The director of transportation may cause a derelict aircraft to be immediately taken into custody. Upon taking custody of a derelict aircraft the director shall concurrently:

- (1) [Publish a] Give public notice of intended disposition[, once, in a newspaper of general circulation in the State];
- (2) When possible, post a notice of intended disposition on the aircraft; and
- (3) Serve a duplicate original of the notice of intended disposition by certified mail, return receipt requested:

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- (A) On the registered owner of the aircraft at the last address shown on records in the Federal Aviation Administration[.];
- (B) On all lien holders who have filed a financing statement indexed in the name of the registered owner in the bureau of conveyances or who are shown in the records of the Federal Aviation Administration[.]; and
- (C) On any other person known to have an interest in the aircraft whose address is known to the department of transportation. If the aircraft is not repossessed within twenty days after the [publication] giving and mailing of the notice, whichever occurs later, the aircraft may be disposed of by negotiated sale, except that, when two or more purchasers indicate an interest in purchasing the aircraft, the aircraft will be sold at public auction to the highest bidder. If no purchaser expresses a desire to purchase the aircraft, the aircraft may be destroyed or disposed of by any other method authorized for abandoned aircraft.”

SECTION 80. Section 266-14, Hawaii Revised Statutes, is amended to read as follows:

“**§266-14 Demurrage, lien, foreclosure.** When any freight has remained upon any wharf, pier, bulkhead, quay, or landing for more than twenty-four hours, the department of transportation [may], in its discretion, may make [such] demurrage charges for each subsequent day or part thereof [as] that in its opinion are just and equitable.

The amount payable by any shipper or consignee for demurrage or other charges in respect of any freight shall be a lien on the [same,] freight, and the department may take and hold possession of any freight to secure the payment of the amount, and for the purpose of [such] the lien, shall be deemed to have possession of the freight until the amount has been paid. If the charges due on freight are not paid within thirty days after being landed, the department may sell the [same] freight at public auction and out of the proceeds retain the charges accrued, including the costs of [advertisement] public notice and sale, which latter shall be prorated upon the articles or lots [advertised] sold in proportion to the amount received for each article or lot. Before any sale is made, the department shall [publish a] give public notice of the time and place of sale at least once each week for three successive weeks [in some newspaper of general circulation printed and published] in the county in which the place is located to which the freight is consigned or addressed, or [if no such newspaper is printed and published therein,] by posting this notice at the courthouses of the district in which the place is located[.] to which the freight is consigned or addressed. The notice shall contain a description of [such] the property as near as may be, the name of the owner or consignee if known, the amount of charges due thereon, together with the time and place of sale. Any freight in its nature perishable may be sold by the department either at public or private sale as soon as its condition makes a sale necessary.

The surplus, if any, received from the sale [shall], after paying any accrued freight charges on the freight, shall be paid to the owner or consignee, if known, and if not known, shall be deposited in the state treasury as a special fund. The fund shall consist of the surplus received from sales made under this section. At any time within one year thereafter, upon written demand and proof of identity satisfactory to the director, the director of finance shall pay the owner thereof the surplus. If this surplus is not claimed by the owner within one year after the date of sale it shall thereupon escheat to the State, and be transferred to the general [funds] fund of the State.”

SECTION 81. Section 269-12, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Any public hearing held pursuant to section 269-16(c), shall be [an advertised] a noticed public hearing or hearings on the island on which the utility is situated. Notice of the [advertised] hearing, with the purpose thereof and the date, time, and place at which it will open, shall be [advertised] given not less than once in each of three weeks [in a newspaper published in and of general circulation in the State.] statewide, the first [publication] notice being not less than twenty-one days before the public hearing and the last [publication] notice being not more than two days before the scheduled hearing. The applicant or applicants shall notify their consumers or patrons of the proposed change in rates and of the time and place of the public hearing not less than one week before the date set, the manner and the fact of notification to be reported to the commission before the date of hearing. [The commission may use such additional media as radio or television to advise the public if it finds it necessary to do so.]”

SECTION 82. Section 279E-6, Hawaii Revised Statutes, is amended to read as follows:

“**§279E-6 Meetings.** [Notice] Public notice of MPO policy committee meetings shall be [published in a newspaper of general circulation] given at least forty-eight hours in advance and [such] the meetings shall be open to the public.

When the MPO makes a decision concerning input to any of its advisory plans or procedures or any other matter, then there shall be at least six members of the MPO policy committee present, of whom at least three shall be state members and at least three shall be county members. The decision shall be made by a majority vote of the members present.”

SECTION 83. Section 281-57, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) If no preliminary hearing is had or if the application is not denied upon a preliminary hearing, the commission shall fix a day for the public hearing of the application (other than an application for an alcohol license or a license in classes 7 to 10 and 13) and shall [publish] give public notice of the hearing at least once in each of two consecutive weeks [(two insertions) in some newspaper published in the English language in the county (or if there be none such then in the city and county of Honolulu) having a general circulation], in the county, the date of the hearing to be not less than forty-five days after the first [publication.] notice. The notice shall require that all protests or objections against the issuance of the license applied for shall be filed with the administrator of the commission at or before the time of hearing. Before [making such publication] giving the notice the commission shall collect from the applicant the cost of [making the publication] giving the public notice or require a deposit to cover the same.”

SECTION 84. Section 306-4, Hawaii Revised Statutes, is amended to read as follows:

“**§306-4 Revenue bonds.** Revenue bonds shall be issued in the name of the board of regents, may be in one or more series, may be in [such] a denomination or denominations, may bear [such] a date or dates, may mature at [such] a time or times not exceeding fifty years from their respective dates, may be payable at [such] a place or places within or without the State, may carry [such] registration privileges as to principal alone or as to both principal and interest, may be subject to [such] terms or redemption with or without premium, may be executed in [such] a manner,

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and may contain [such] terms, covenants, and conditions, and may be in [such] a form, either coupon or registered with privilege of exchange from one form to another, [as] that the resolution authorizing the issuance of the bonds, or subsequent resolutions may provide.

Revenue bonds may be sold at private sale to the United States, or any agency, instrumentality, or corporation thereof, to the State or any political subdivision, agency, instrumentality, or corporation thereof, or to any person or group of persons offering to purchase all or a major portion of a particular issue or series. Unless sold at private sale as herein provided, revenue bonds shall be sold at public sale after [publication of a] public notice of [such] the sale [at least once, the date of publication to be] given at least five days prior to the date of the sale, and the [publication] notice shall be made [in a newspaper published and of general circulation in the State] statewide and in a financial newspaper published in [either] any of the cities of New York, Chicago, or San Francisco. The revenue bonds shall be sold for not less than ninety-eight per cent of the principal amount thereof. Pending the preparation of definitive revenue bonds, interim receipts or temporary bonds may be issued and delivered to the purchasers of the bonds in [such] a form and containing [such] provisions [as] that the board may determine. Revenue bonds, interim receipts, and temporary bonds shall be fully negotiable within the meaning of and for all the purposes of the Uniform Commercial Code, chapter 490.

It shall be legal for the State and any of its political subdivisions, or any political or public corporation, including the employees' retirement system of the State, or any instrumentality of the State, or any insurance company or building and loan association, or any savings bank or trust company, or any bank or other financial institution operating under the laws of this State, or for any personal representative, guardian, trustee, or other fiduciary, or any educational, charitable, or eleemosynary institution, to invest their funds, and moneys in their custody in revenue bonds issued under this chapter."

SECTION 85. Section 323-70, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Notwithstanding subsection (a) and without regard to chapter 91, the division may:

- (1) Increase rates, rents, fees, and charges by up to five per cent per fiscal year;
- (2) Reduce rates, rents, fees, and charges without notice; and
- (3) Establish rates for new medical services that are comparable to rates charged by private hospitals in Hawaii;

provided that the division shall give public notice of the revisions by [publishing] giving a summary statement of the substance of the proposed revisions [in a newspaper of general circulation in the State] statewide not less than thirty days before the revisions take effect. Following this notice, the division shall review the proposed rates with an appropriate body that includes representation from health benefit plans."

SECTION 86. Section 323D-44.5, Hawaii Revised Statutes, is amended to read as follows:

**"§323D-44.5 Administrative review of certain applications for certificate of need.** The state agency shall adopt rules in conformity with chapter 91 providing for administrative review and decision on certain applications for certificate of need. Each application reviewed under this section may be subject to a public information meeting before the state agency makes its decision. The agency [shall publish in a newspaper of general circulation], in the State and [in a newspaper that



is printed and issued at least twice weekly] in the county affected, [a legal] shall give public notice of applications for administrative review received by the agency. Interested persons may request in writing a public meeting before the agency renders a decision on the administrative application. If a request for a public meeting is received, the administrator will preside over the meeting. If no request is received by the agency within seven days of the [legal] public notice [publication] date, no public meeting need be scheduled. Applications subject to administrative review and decision under this section shall include but are not limited to applications that are:

- (1) Inconsistent with or contrary to the state health services and facilities plan under section 323D-15;
- (2) Determined not to have a significant impact on the health care system; or
- (3) Involve capital or annual operating expenses below a significant level.”

SECTION 87. Section 342B-13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as provided in subsections (b) and (c), where public participation is deemed appropriate by the director or is required, the director shall provide for notice and opportunity for public comment as follows:

- (1) The director shall make available for public inspection in at least one location in the county affected by the proposed action, or in which the source is or would be located:
  - (A) Information on the subject matter;
  - (B) All information submitted by the applicant, except for that deemed confidential;
  - (C) The department’s analysis and proposed action; and
  - (D) Other information and documents deemed appropriate by the department;
- (2) The director shall notify the public of the availability of information listed in paragraph (1). [Notification] Public notification shall be [published in a newspaper which is printed and issued] given at least twice weekly in the county affected by the proposed action, or in which the source is or would be located;
- (3) Public notice shall be mailed to any person, group, or agency upon request;
- (4) The director shall provide a period of not less than thirty days following the date of the public notice during which time interested persons may submit written comments on the subject matter, application, department’s analysis and proposed actions, and other appropriate considerations. The period for comment may be extended at the discretion of the director; and
- (5) The director, at the director’s sole discretion, may hold a public hearing if the public hearing would aid in the director’s decision. Any person may request a public hearing. The request shall be in writing and shall be filed within the thirty-day comment period prescribed in paragraph (4) and shall indicate the interest of the party filing the request and the reasons why a hearing is warranted. The director shall [publish] give the public notice for a hearing in accordance with paragraph (2) at least thirty days in advance of the hearing date and shall conduct the hearing in the county which would be affected by the proposed action, or in which the source is or would be located.”

SECTION 88. Section 342D-7, Hawaii Revised Statutes, is amended by amending subsection (i) to read as follows:

“(i) Any application for a variance, submitted pursuant to this chapter, shall be subject to the public participation requirements listed below[.];

- (1) Public notices of every completed application for a variance shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed discharge or other proposed activity. Procedures for the circulation of public notices shall include at least the following:
    - (A) Notice shall be [circulated] given within the geographical areas of the proposed discharge or other proposed activity; [such circulation shall include publishing in local newspapers and periodicals, or, if appropriate, in a daily newspaper of general circulation;]
    - (B) Notice shall be mailed to any person or group upon request; and
    - (C) The director shall add the name of any person or group upon request to a mailing list to receive copies of notices for all variance applications within the State or within a certain geographical area[.];
  - (2) The director shall provide a period of not less than thirty days following the date of the public notice during which time interested persons may submit their written reviews with respect to the variance application and the tentative determinations of the department, if any. The period for comment may be extended at the discretion of the director[.];
  - (3) The contents of public notice of applications for variances shall include at least the following:
    - (A) Name, address, and phone number of agency issuing the public notice;
    - (B) Name and address of each applicant;
    - (C) Brief description of each applicant’s activities or operations which result in the discharge or other activity described in the variance application (e.g., rock crushing plant, municipal waste treatment plant, raw sugar factory, or pineapple cannery);
    - (D) A short description of the location of each discharge indicating whether [such] the discharge is new or existing;
    - (E) A brief description of the procedures for the formulation of final determinations, including the thirty-day comment period required by paragraph (2) [of this subsection] and any other means by which interested persons may influence or comment upon those determinations; and
    - (F) Address and phone number of state agency premises at which interested persons may obtain further information and inspect a copy of the variance applications and supporting and related documents[.];
- and
- (4) The director may hold a public hearing if, after reviewing the comments submitted under paragraph (2), the director determines that a public hearing is warranted. Any hearing brought pursuant to this subsection shall be held in the geographical area of the proposed discharge or other proposed activity, or other appropriate area, at the discretion of the director.”

SECTION 89. Section 342F-5, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

“(h) Any application for a variance, submitted pursuant to this chapter, shall be subject to the public participation requirements listed below.

- (1) Public notices of every completed application for a variance, except an application for off-hour road work, shall be [circulated] given in a manner designed to inform interested and potentially interested persons of the proposed emission. Procedures for [the circulation of] giving public [notices] notice shall include at least the following:
  - (A) Notice shall be [circulated] given within the geographical areas of the proposed emission; [such circulation shall include publishing in local newspapers and periodicals, or, if appropriate, in a daily newspaper of general circulation;]
  - (B) Notice shall be mailed to any person or group upon request; and
  - (C) The director shall add the name of any person or group upon request to a mailing list to receive copies of notices for all variance applications within the State or within a certain geographical area[.];
- (2) The director shall provide a period of not less than thirty days following the date of the public notice during which time interested persons may submit their written reviews with respect to the variance application and the tentative determinations of the department, if any. The period for comment may be extended at the discretion of the director[.];
- (3) The contents of public notice of applications for variances shall include at least the following:
  - (A) Name, address, and phone number of agency issuing the public notice;
  - (B) Name and address of each applicant;
  - (C) Brief description of each applicant’s activities or operations which result in the emission described in the variance application (e.g., rock crushing plant, municipal waste treatment plant, raw sugar factory, or pineapple cannery);
  - (D) A short description of the location of each emission indicating whether [such] the emission is new or existing;
  - (E) A brief description of the procedures for the formulation of final determinations, including the thirty-day comment period required by paragraph (2), and any other means by which interested persons may influence or comment upon those determinations; and
  - (F) Address and phone number of state agency premises at which interested persons may obtain further information and inspect a copy of the variance applications and supporting and related documents[.];
- and
- (4) The director may hold a public hearing if, after reviewing the comments submitted under paragraph (2), the director determines that a public hearing is warranted. Any hearing brought pursuant to this subsection shall be held in the geographical area of the proposed emission or other appropriate area, at the discretion of the director.”

SECTION 90. Section 342G-30, Hawaii Revised Statutes, is amended to read as follows:

“§342G-30<sup>3</sup> **Records.** Each operator of a municipal solid waste landfill or incineration facility shall keep records of all deliveries of solid waste to the facility, including, but not limited to, the source of the waste, the kind of waste received, and

the weight or volume, or both, of the waste. The records shall be made available to the department and the respective county for inspection, upon request. At the request of a county, the department may exempt a specific facility from this requirement, or may modify this requirement for a specific facility, if the department determines that the cost of compliance is likely to exceed the value of accurate and thorough data. If the department grants an exemption to a facility under this section, the public shall be notified through [publication of] a statewide public notice [in a newspaper of general circulation in the State].”

SECTION 91. Section 342H-5, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

“(h) Any application for a variance submitted pursuant to this chapter, shall be subject to the following public participation requirements:

- (1) Public notices of every completed application for a variance shall be [circulated] given in a manner designed to inform interested and potentially interested persons of the proposed disposal or other proposed activity. Procedures for [the circulation] of] <sup>3</sup> giving public [notices] notice shall include at least the following:
  - (A) Notice shall be [circulated] given within the geographical areas of the proposed disposal or other proposed activity; [such circulation shall include publishing in local newspapers and periodicals, or, if appropriate, in a daily newspaper of general circulation;]
  - (B) Notice shall be mailed to any person or group upon request; and
  - (C) The director shall add the name of any person or group upon request to a mailing list to receive copies of notices for all variance applications within the State or within a certain geographical area[.];
- (2) The director shall provide a period of not less than thirty days following the date of the public notice during which time interested persons may submit their written reviews with respect to the variance application and the tentative determinations of the department, if any. The period for comment may be extended at the discretion of the director;
- (3) The contents of public notice of applications for variances shall include at least the following:
  - (A) Name, address, and phone number of agency issuing the public notice;
  - (B) Name and address of each applicant;
  - (C) Brief description of each applicant’s activities or operations which result in the disposal or other activity described in the variance application;
  - (D) A short description of the location of each disposal or activity indicating whether [such] the disposal or activity is new or existing;
  - (E) A brief description of the procedures for the formulation of final determinations, including the thirty-day comment period required by paragraph (2) [of this subsection] and any other means by which interested persons may influence or comment upon those determinations; and
  - (F) Address and phone number of state agency premises at which interested persons may obtain further information and inspect a copy of the variance applications and supporting and related documents;

and

- (4) The director may hold a public hearing if, after reviewing the comments submitted under paragraph (2), the director determines that a public hearing is warranted. Any hearing brought pursuant to this subsection shall be held in the geographical area of the proposed disposal or other proposed activity, or other appropriate area, at the discretion of the director.”

SECTION 92. Section 342L-6, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

“(h) Any application for a variance, submitted pursuant to this chapter, shall be subject to the public participation requirements listed below.

- (1) Public notices of every completed application for a variance shall be [circulated] given in a manner designed to inform interested and potentially interested persons of the proposed activity. Procedures for [the circulation of] giving public [notices] notice shall include at least the following:
  - (A) Notice shall be [circulated] given within the geographical areas of the proposed activity; [this circulation shall include publishing in local newspapers and periodicals, or, if appropriate, in a daily newspaper of general circulation;]
  - (B) Notice shall be mailed to any person or group upon request; and
  - (C) The director shall add the name of any person or group upon request to a mailing list to receive copies of notices for all variance applications within the State or within a certain geographical area[.];
- (2) The director shall provide a period of not less than thirty days following the date of the public notice during which time interested persons or groups may submit their written comments with respect to the variance application and the tentative determinations of the department, if any. The period for comment may be extended at the discretion of the director[.];
- (3) The contents of public notice of applications for variances shall include at least the following:
  - (A) Name, address, and telephone number of the agency issuing the public notice;
  - (B) Name and address of each applicant and other involved parties including the landowner, facility owner, underground storage tank or tank system owner, facility operator, and underground storage tank or tank system operator;
  - (C) Brief description of all applicant activities or operations that result in the activity described in the variance application (e.g., rock crushing plant, municipal waste treatment plant, raw sugar factory, or pineapple cannery);
  - (D) A short description of the location of each underground storage tank or tank system;
  - (E) A brief description of the procedures for the formulation of final determinations, including the thirty-day comment period required by paragraph (2) and any other means by which interested persons may influence or comment upon those determinations; and
  - (F) Address and telephone number of the state agency or other location at which interested persons may obtain further information and inspect a copy of the variance applications and supporting and related documents[.];

- (4) and The director may hold a public hearing if, after reviewing the comments submitted under paragraph (2), the director determines that a public hearing is warranted. Any hearing brought pursuant to this subsection shall be held in the geographical area of the proposed activity, or other appropriate area, at the discretion of the director.”

SECTION 93. Section 359-80, Hawaii Revised Statutes, is amended to read as follows:

“**§359-80 Sale of bonds.** Housing bonds may be sold at private sale to the United States, or any agency, instrumentality, or corporation thereof, or to the employees’ retirement system of the State, or to any political subdivision of the State. Unless so sold at private sale, the bonds shall be sold at public sale after public notice of the sale [published] given once, at least five days prior to the sale[, in a newspaper circulating] in the State and in a financial newspaper published in any of the cities of New York, Chicago, or San Francisco.”

SECTION 94. Section 383-71, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Distraint. If the amount of contributions or interest assessed is not paid when due the director may collect payment of same by distress upon so much of the delinquent employer’s goods, chattels, moneys, or intangibles represented by negotiable evidences of indebtedness, as the director may deem sufficient to satisfy the payment of contributions due, penalties, and interest if any, and the costs and expenses of [such] distress. In the case of moneys, distress shall be effected by seizure, and in other cases distress shall be effected by seizure and sale of the property. The director shall take possession and keep the distrained property until the sale. After taking possession, the director shall sell the delinquent employer’s interest in the property at public auction after first giving fifteen days’ public notice of the time and place of the sale [by publication at least once in a newspaper, published] in the county where the sale is to be held, [or] and by posting [such] notice in at least three public places in the county where the sale is to be held. The director may require the assistance of any sheriff or authorized police officer of any county to aid in the seizure and sale of the distrained personal property. The director may further retain the services of any person competent and qualified to aid the sale of the distrained personal property, provided that the consent of the delinquent employer is obtained. Any sheriff or the person so retained by the director shall be paid a fair and reasonable fee but in no case shall the fee exceed ten per cent of the gross proceeds of the sale. Any person other than a sheriff so retained by the director to assist the director may be required to furnish a bond in an amount to be determined by the director. The fees and the cost of the bond shall constitute a part of the costs and expenses of the distress.

The sale shall take place within twenty days after seizure; provided that by public announcement at the sale, or at the time and place previously set for the sale, it may be extended for one week. Any further extension of the sale shall be with the consent of the delinquent employer. The sale [shall], in any event shall be completed within forty-five days after seizure of the property. Sufficient property shall be sold to pay all contributions, penalties, interest, costs, and expenses. On payment of the price bid for any property sold, the delivery thereof with a bill of sale from the director shall vest the title of the property in the purchaser. No charge shall be made for the bill of sale. All surplus received upon any sale after the payment of the contributions, penalties, interest, costs, and expenses, shall be returned to the owner of the property sold, and until claimed shall be deposited in the director’s office

subject to the order of the owner. Any unsold portion of the property seized may be left at the place of sale at the risk of the owner. If the owner of the property seized desires to retain or regain possession thereof, the owner may give a sufficient bond and surety to produce the property at the time and place of sale or pay all contributions, penalties, interest, costs, and expenses.”

SECTION 95. Section 396-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Administration. The department shall be responsible for administering occupational safety and health standards throughout the State.

- (1) The department shall prescribe and enforce rules [and regulations] under chapter 91 as may be necessary for carrying out the purposes and provisions of this chapter. The department shall make [such] reports to the Secretary of Labor in [such] the form and containing [such] the information [as] that the Secretary [shall] from time to time shall require pursuant to federal law;
- (2) The department shall adopt, amend, or repeal occupational safety and health standards in the manner prescribed by rules [and regulations] adopted hereunder. Emergency temporary standards may be [promulgated] adopted without conforming to chapter 91 and without hearings to take immediate effect upon [publication of a] giving a statewide public notice of [such] the emergency temporary standard [in a newspaper of general circulation in the State of Hawaii] or upon [such] any other date [as] that may be specified in the notice. An emergency temporary standard may be adopted if the director determines:
  - (A) That employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards; and
  - (B) That [such] the emergency standard is necessary to protect employees from [such] danger.

The emergency temporary standard shall be effective until superseded by a standard [promulgated] adopted in accordance with the procedures set forth in chapter 91, but in any case shall be effective no longer than six months;

- (3) Variances from occupational safety and health standards [promulgated] adopted under this chapter may be granted upon application of an employer or employers. Application for variances must correspond to procedures set forth in the rules [and regulations] of this chapter. The director may issue an order for variance if the director determines that the proponent of the variance has demonstrated that the conditions, practices, means, methods, operations, or processes used or proposed to be used by the employer will provide employment and places of employment to the employer’s employees which are as safe and healthful as those which would prevail if the employer complied with the standard. The employer shall also notify the employer’s employees upon each application for variance and the employees shall be given an opportunity to request and participate in hearings or other proceedings relating to applications for variance. No inference of admission of violation of a standard shall be made against the employer by reason of the employer’s application for variance; and
- (4) The department [may], upon the application of any employer or other person affected thereby, may grant [such] any time [as] that may reasonably be necessary for compliance with any order. Any person

- affected by an order may petition the department for an extension of time, which may be granted if the department finds it necessary; and
- (5) The department shall regulate hoisting machines and shall certify their operators.”

SECTION 96. Section 397-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Administration.

- (1) The department [of labor and industrial relations] shall establish a boiler and elevator inspection bureau for the enforcement of the rules [and regulations promulgated] adopted by the authority of this chapter and [such] other duties [as] assigned[.];
- (2) The department shall:
  - (A) Implement and enforce the requirements of this chapter[.]; and
  - (B) Keep adequate and complete records of the type, size, location, identification data, and inspection findings for boilers, pressure systems, amusement rides, and elevators and kindred equipment required to be inspected pursuant to this chapter[.];
- (3) The department shall formulate definitions and adopt and enforce standards[,] and rules [and regulations] pursuant to chapter 91 [as] that may be necessary for carrying out the purposes and provisions of this chapter. Definitions[,] and rules [and regulations] adopted in accordance with chapter 91 under the authority of chapter 396, prior to the adoption of this chapter that pertain to boilers, pressure systems, amusement rides, and elevators and kindred equipment required to be inspected pursuant to this chapter, shall be continued in force under the authority of this chapter[.];
- (4) Emergency temporary standards may be [promulgated] adopted without conforming to chapter 91 and without hearings to take immediate effect upon [publication of a] giving public notice of [such] the emergency temporary standards [in a newspaper of general circulation in the State] or upon [such other] another date [as] that may be specified in the notice. An emergency temporary standard may be adopted, if the director determines:
  - (A) That the public or individuals are exposed to grave danger from exposure to hazardous conditions or circumstances; and
  - (B) That [such] the emergency standard is necessary to protect the public or individuals from [such] danger.

Emergency temporary standards shall be effective until superseded by a standard [promulgated] adopted in accordance with [the procedures set forth in] chapter 91, but in any case shall be effective no longer than six months[.];
- (5) Variances from standards [promulgated] adopted under this chapter may be granted upon application of an owner, user, contractor, or vendor. Application for variances must correspond to procedures set forth in the rules [and regulations] adopted pursuant to this chapter. The director may issue an order for variance, if the director determines that the proponent of the variance has demonstrated that the conditions, practices, means, methods, operations, or processes used or proposed to be used will provide substantially equivalent safety as that provided by the standards[.];
- (6) Permits.



- (A) The department shall not issue a “permit to operate” regarding any boiler, pressure system, or elevator and kindred equipment unless they are found to be safe by a qualified inspector[.];
- (B) The department may immediately revoke any “permit to operate” any boiler, pressure system, or elevator and kindred equipment found to be in an unsafe condition or where a user, owner, or contractor ignores prior department orders to correct specific defects or hazards and continues to use or operate the above mentioned apparatus without abating the hazards or defects[.];
- (C) The department shall reissue a “permit to operate” to any user, owner, or contractor who demonstrates that the user, owner, or contractor is proceeding in good faith to abate all nonconforming conditions mentioned in department orders and the boilers, pressure systems, and elevators and kindred equipment are safe to operate[.]; and
- (D) The department shall establish criteria for the periodic reinspection and renewal of the permits to operate, and may provide for the issuance of temporary permits to operate while any noncomplying boiler, pressure system, and elevator and kindred equipment are being brought into full compliance with the applicable standards [and regulations promulgated] and rules adopted pursuant to this chapter[.];
- (7) Certificates of inspection shall be issued for amusement rides after each inspection, if the rides are found to be safe for use[.];
- (8) No boiler, pressure system, amusement ride, or elevator and kindred equipment which are required to be inspected by this chapter or by any rule [or regulation promulgated] adopted pursuant to this chapter shall be operated, except as necessary to install, repair, or test, unless a permit to operate or certificate of inspection has been authorized or issued by this department and remains valid[.]; and
- (9) The department [may], upon the application of any owner or user or other person affected thereby, may grant [such] time [as] that may reasonably be necessary for compliance with any order. Any person affected by an order may for cause petition the department for an extension of time.”

SECTION 97. Section 415-95, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Whenever the director certifies the name of a corporation as having given any cause for dissolution pursuant to section 415-94, the director may declare the corporation dissolved. Before the director may declare a corporation dissolved, the director shall:

- (1) Give notice of the ground or grounds for dissolution as provided in section 415-94, by mailing the notice to the corporation at its last known address appearing in the records of the director; and
- (2) Give statewide public notice of the intention to dissolve the corporation [by publishing the notice] once in each of three successive weeks [(three publications) in a newspaper of general circulation published in the State].”

SECTION 98. Section 415A-18, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

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“(a) Whenever it is established that a professional corporation has failed to comply with any provision of this chapter, the director may declare the corporation dissolved.

Before the director may declare a corporation dissolved, the director shall:

- (1) Give notice of the ground or grounds for dissolution as provided in section 415-94, by mailing the notice to the professional corporation at its last known address appearing in the records of the director; and
- (2) Give statewide public notice of the intention to dissolve the corporation [by publishing the notice] once in each of three successive weeks [(three publications) in a newspaper of general circulation published in the State].”

SECTION 99. Section 415B-98, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Whenever the director certifies that a corporation has given any cause for dissolution pursuant to section 415B-97, the director may declare the corporation dissolved. Before the director may declare a corporation dissolved, the director shall:

- (1) Give notice of the ground or grounds for dissolution as provided in section 415-94, by mailing the notice to the corporation at its last known address appearing in the records of the director; and
- (2) Give statewide public notice of the intention to dissolve the corporation [by publishing the notice] once in each of three successive weeks [(three publications) in a newspaper of general circulation published in the State].”

SECTION 100. Section 431:3-203.5, Hawaii Revised Statutes, is amended to read as follows:

“**§431:3-203.5 Foreign insurer; certification.** Notwithstanding section 431:3-203 or any other law to the contrary in this code, the insurance commissioner shall grant a certificate of authority to any applicant, regardless of the number of previous years experience in the business of insurance, that is an insurer licensed under the insurance laws of one of not less than three states annually designated by the insurance commissioner from among the states which are accredited by the National Association of Insurance Commissioners. The loss of accreditation by a state designated by the commissioner shall not in itself affect the validity of a previously issued certificate of authority by the commissioner to a foreign insurer licensed under the insurance laws of the previously accredited state. Nor shall the commissioner’s de-selection of a state affect the validity of a previously issued certificate of authority to a foreign insurer licensed by that state. Each year, after having designated, or redesignated, the accredited states whose insurers shall be authorized to transact insurance in this State, the commissioner shall cause to be [published in a newspaper of general circulation] given in this State, and in those of the designated states, public notice of the fact that those states have been so designated. The commissioner may waive the filing of any document required to be submitted under section 431:3-212. Nothing in this section shall limit the commissioner’s authority to require a foreign insurer to proceed with the certification process under this article if the commissioner, at the commissioner’s discretion, determines that it would be in the public interest.”

SECTION 101. Section 440G-7, Hawaii Revised Statutes, is amended to read as follows:

“§440G-7 Cable franchise application or proposal procedure; public hearing; notice. An application or proposal for a cable franchise shall be proposed as follows:

- (1) After the application or proposal and required fee are received by the director and within a time frame established by rule, the director shall notify an applicant in writing of the acceptance or nonacceptance for filing of an application or proposal for issuance of a cable franchise required by this chapter[.];
- (2) After the issuance of a notice of acceptance for filing and within a time frame established by rule, the director shall hold a public hearing on the application or proposal to afford interested persons the opportunity to submit data, views, or arguments, orally or in writing. Notice thereof shall be given to the governing council and mayor of the county and to any telephone or other utility and cable company in the county in which the proposed service area is located. The director shall also [cause] give public notice of the application and hearing [to be published] at least once in each of two successive weeks [in a newspaper of general circulation] in the county in which the proposed service area is located. The last [published] notice shall [appear] be given at least fifteen days prior to the date of the hearing[.];
- (3) After holding a public hearing, the director shall approve the application or proposal in whole or in part, with or without conditions or modifications, or shall deny the application or proposal, with reasons for denial sent in writing to the applicant. If the director does not take final action after the issuance of a notice of acceptance for filing and within a time frame established by rule, the application or proposal shall be deemed denied[.]; and
- (4) The time limit for final action may be extended, on the director’s approval of the applicant’s request and justification in writing for an extension of time to the director at least two weeks in advance of the requested effective date of the extension, or by mutual agreement.”

SECTION 102. Section 448-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The board shall meet for the purpose of examining applicants and for other purposes at [such] times [as] that it designates. Adequate statewide public notice of the times and places of examinations shall be given. The board may prescribe which members shall participate in the examination and licensing procedures.”

SECTION 103. Section 502-3, Hawaii Revised Statutes, is amended to read as follows:

“§502-3 Deputy registrar, appointment, duties. The registrar [shall], under the direction of the board of land and natural resources, shall appoint a deputy, for whose official acts the registrar shall be responsible, and whose appointment the registrar shall announce [in a newspaper or newspapers suitable for the advertisement of notices of judicial proceedings.] by public notice. The deputy shall act as registrar of conveyances, during the absence of the registrar, or in case of a vacancy in that office.”

SECTION 104. Section 516-22, Hawaii Revised Statutes, is amended to read as follows:

**“§516-22 Designation of leased fee interest in all or part of development tract for acquisition.** The corporation may designate all or a portion of a development tract for acquisition and acquire leased fee interests in residential houselots in [such] a development tract, through the exercise of the power of eminent domain or by purchase under the threat of eminent domain after twenty-five or more lessees or the lessees of more than fifty per cent of the residential lease lots within the development tract, whichever number is the lesser, have applied to the corporation to purchase the leased fee interest in their residential leasehold lots pursuant to section 516-33 and if, after due public notice and public hearing, the time and place of which have been duly [advertised in a newspaper of general circulation] given in the county in which the development tract is situated on at least three different days, the last [publication] notice being not less than five days before the date of hearing, the corporation finds that the acquisition of the leased fee interest in residential houselots in all or part of the tract through exercise of the power of eminent domain or by purchase under threat of eminent domain and the disposition thereof, as provided in this part will effectuate the public purposes of this chapter.”

SECTION 105. Section 516-29, Hawaii Revised Statutes, is amended to read as follows:

**“§516-29 Notice of disposition.** Except in case of a sale of the leased fee interest to the lessee of a residential lot under lease, no sale or lease of any residential lots shall be made by the housing and community development corporation<sup>3</sup> unless it has [published] given public notice on at least two different days [in a newspaper of general circulation] in the county[, a notice] of its intent to sell or lease. The notice shall state, in general terms, the size, location, and prices or lease rentals of the lots to be sold or leased, the terms of the sale or lease, and the last date on which applications will be received by the corporation, which date shall not be less than thirty days after the first [publication of the] notice. The notice shall also state the times and places at which more detailed information with respect to the sale or lease may be secured by interested persons.”

SECTION 106. Section 523A-3.5, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) The director shall cause [a] notice to be [published] given no later than April 1 of the fiscal year ending June 30 in which the property shall escheat to the State at least once [in a newspaper of general circulation in the State.] statewide.

(c) The notice shall be entitled, “Notice to Declare Certain Abandoned Property Escheated to the State of Hawaii” and contain:

- (1) A statement that any property presumed abandoned and paid or delivered to the director that remains unclaimed as of June 30 of the year the notice is [published] given and that meets the escheat criteria established in subsection (a)(1), (2), (3), (4), or (5) shall escheat to the State on June 30, and all rights, title, or interest of the owner shall be terminated and all claims of the owner shall be forever barred;
- (2) A statement listing the names of owners of abandoned property with a value greater than \$5,000 scheduled to escheat to the State; and
- (3) A statement identifying the location where a list of names and last known addresses, if any, of persons appearing to be owners of abandoned property subject to escheat on June 30 of the year the notice is [published;] given; and stating that this list shall be made available as a government record.

This section shall not apply to sums payable on:

- (1) Travelers checks, money orders, and other written instruments presumed abandoned under section 523A-4; or
- (2) Checks, drafts, or similar instruments on which a banking or financial organization is directly liable, including a cashier's check and a certified check presumed abandoned under section 523A-5."

SECTION 107. Section 523A-18, Hawaii Revised Statutes, is amended to read as follows:

**"§523A-18 Notice and publication of abandoned property.** (a) The director shall cause a public notice to be [published] given for all properties reported abandoned not later than March 1 of the year immediately following the report required by section 523A-17 at least once [in a newspaper of general circulation in the State.] statewide.

(b) The [published] notice shall be entitled "Notice to Persons Appearing to be Owners of Abandoned Property" and contain:

- (1) The names in alphabetical order and last known address, if any, of persons listed in the report with property valued greater than \$100;
- (2) A statement identifying the location of a list of names and last known addresses, if any, of persons appearing to be owners of abandoned property and stating that this list shall be made available as a government record;
- (3) A statement that information concerning the property and the name and last known address of the holder may be obtained by any person possessing an interest in the property by addressing an inquiry to the director; and
- (4) A statement that if proof of claim is not presented by the owner to the holder and the owner's right to receive the property is not established to the holder's satisfaction before April 20, the property will be placed not later than May 1, in the custody of the director and all further claims shall thereafter be directed to the director.

(c) The director shall not be required to [publish] list in the notice any items of less than \$50 unless the director considers [their publication] the notice to be in the public interest.

(d) This section shall not apply to sums payable on travelers checks, money orders, and other written instruments presumed abandoned under section 523A-4."

SECTION 108. Section 523A-22, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as provided in subsections (b) and (c), the director, within three years after the receipt of abandoned property, shall sell it to the highest bidder at public sale wherever in the State affords in the judgment of the director the most favorable market for the property involved. The director may decline the highest bid and reoffer the property for sale if in the judgment of the director the bid is insufficient. If in the judgment of the director the probable cost of sale exceeds the value of the property, it need not be offered for sale. Any sale held under this section shall be preceded by [a single publication of] public notice, at least three weeks in advance of sale, [in a newspaper of general circulation] in the county in which the property is to be sold."

SECTION 109. Section 523A-56, Hawaii Revised Statutes, is amended to read as follows:

**“§523A-56 Posting copy of report; notice of interest and intention to claim; determination of asserted interest.** (a) When a report is received from the Comptroller General or other proper officer of the United States, the director shall [cause] give the notice described in subsection (b) [to be published] not later than May 1 of the year immediately following the report required by section 523A-54, at least once [in a newspaper of general circulation in the State.] statewide.

(b) The [published] public notice shall contain:

- (1) The names in alphabetical order and last known address, if any, of any person listed in the report with property valued greater than \$100;
- (2) A statement identifying the location of a list of names and last known addresses, if any, of persons appearing to be owners of abandoned property; and stating that this list shall be made available as a government record; and
- (3) A statement that information concerning the property and the name and last known address of the holder may be obtained by any person possessing an interest in the property by addressing an inquiry to the director.

(c) The director shall not be required to [publish] list in the notice any items of less than \$50 unless the director considers [their publication] the notice to be in the public interest. Any person asserting an interest in property described in the report may elect to claim against the United States, under the laws of the United States, in which event and within ninety days following the date of initial [publication such] public notice the person shall notify the director of [such] the person’s asserted interest and intention to so claim. The director shall omit [such] the property from any claim by the State until [such time as] the asserted interest may be finally determined against the claimant. [Such] The interest shall not thereafter be asserted against the State.”

SECTION 110. Act 82, Session Laws of Hawaii 1975, as amended by Act 137, Session Laws of Hawaii 1997, is amended by amending section 6 to read as follows:

“SECTION 6. Powers and duties of the corporation. Except as otherwise limited by this Act, the corporation shall have the following powers and duties and shall:

(a) Have succession and corporate existence in perpetuity;

(b) To adopt, amend and repeal bylaws providing for its organization and internal management and governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law consistent with this Act and the Act of the United States Congress authorizing the establishment of the East-West center and other relevant laws of the United States and the State; provided that all meetings for the adoption, amendment and repeal of bylaws shall be open to the public, and public notice of any such meeting, including an agenda of items to be discussed at the meeting, shall be announced by public notice statewide at least fourteen days in advance and [published] at least twice [in a newspaper of general circulation in the State] within the fourteen days but at least seven days prior to the meeting.

(c) Adopt and use a common seal;

(d) Acquire in any lawful manner any property, real, personal, or mixed, tangible or intangible, or any interest therein; to hold, maintain, use, manage, and operate the same; and to sell, lease, rent, or otherwise dispose of the same at such time, in such manner, and to the extent deemed necessary or appropriate to carry out its purposes;

(e) Enter into and perform such contracts, leases, cooperative agreements, or other arrangements as may be necessary to carry out the purposes of this Act and on

such terms as it may deem appropriate with any agency or instrumentality of the United States, another nation, a state, territory, or possession, or with any political subdivision of any of the foregoing, or with any person, firm, association, institution, corporation, or organization, whether private, governmental, or international and whether located within or outside of the United States;

(f) Determine the character of and necessity for its obligations and expenditures, and the manner in which the same shall be incurred, allowed, and paid;

(g) Seek, receive and accept from public and private sources whether located within or outside of the United States, by grants, gifts, devices, bequests or otherwise money and property, real, personal, or mixed, tangible or intangible, absolutely or in trust, to be used in carrying out the purposes of this Act;

(h) Serve as trustee and be named a beneficiary under the terms of any gift, indenture or will;

(i) Appoint and discharge a chief executive officer, subordinate officers, employees, and agents as the business of the corporation requires, and to classify, prescribe the duties and qualifications, and fix the compensation and benefits of all officers, employees, and agents of the corporation;

(j) Establish such policies and procedures as may be necessary, including a personnel system and a budget system;

(k) Enter into employee collective bargaining agreements in conformance with all applicable laws;

(l) Establish an international advisory board of not less than seven members, whose terms shall be as set forth in the bylaws of the corporation, to advise the corporation on programmatic matters, and to establish such other committees, boards, and bodies as it may from time to time deem desirable, and to prescribe their duties and responsibilities;

(m) Grant a special certificate to individuals who have successfully completed programs of study, training and research conducted by the East-West center;

(n) Establish and maintain, and to assist in establishing and maintaining, scholarships, fellowships, lectureships, chairs, and other staff positions, and to enter into contracts, agreements, and other arrangements with any person, firm, association, institution, corporation, or organization, whether private, governmental, or international and whether located within or outside of the United States, for this purpose, and to pay the necessary and appropriate costs and expenses therefor;

(o) Collect fees and other charges for programs, facilities, services, and educational products, and to hold copyright;

(p) Sue and be sued in its corporate name, except that the corporation shall be immune from any writ of attachment and execution against its assets;

(q) Delegate any of the powers of the corporation to any standing or special committee, board, or body, or to any officer or agent, upon such terms as it deems fit except for the powers granted under subsection (b) hereof;

(r) Execute, in accordance with its bylaws, all contracts and other instruments necessary or appropriate for the exercise of its powers under this Act; and

(s) To do any and all things necessary or appropriate to carry out its purposes and exercise the powers given and granted in this Act.”

SECTION 111. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 112. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>4</sup>

**ACT 3**

SECTION 113. This Act shall take effect upon its approval.

(Approved February 26, 1998.)

**Notes**

- 1. Prior to amendment "to" appeared here.
- 2. Prior to amendment "rights" appeared here.
- 3. So in original.
- 4. Edited pursuant to HRS §23G-16.5.

**ACT 3**

H.B. NO. 397

A Bill for an Act Relating to Motor Vehicle Registration.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 249, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§249- Stored vehicles.** (a) All vehicles taxable under sections 249-1, 249-2, 249-4 and 249-6 to 249-13, which are stored so that they are not used for transportation, or for the other purposes covered by section 249-2, shall be exempt from the tax for the period of storage; provided that the owner of each vehicle shall first present to the director of finance a signed statement of the fact of the storage, together with other relevant facts as may be required by the director of finance and shall surrender the last issued certificate of registration, license plates, and emblem for the vehicle. If the affidavit, certificate of registration, license plates, and emblem are presented to the director of finance after the expiration of the vehicle’s registration period, then the unpaid tax for each month the license plates could have been validated with an emblem plus the fee for the currently issued license plates and emblem shall be paid in full upon presenting the affidavit.

(b) The director of finance may dispose of the license plates for any vehicle whose registration has expired and the owner shall be required to purchase new license plates and a new emblem upon removing the vehicle from storage.

(c) As a condition precedent to the removal of the vehicle from storage, the owner of the vehicle shall present to the director of finance a certificate of inspection that was issued after the recording of the storage with the director of finance.”

SECTION 2. Chapter 286, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§286- Junking of nonrepairable vehicle.** Any owner of a vehicle, whether it is currently registered or not currently registered, which is incapable of safe operation for use on the public highway and which has no resale value except as a source of parts or scrap only, or which the owner irreversibly designates as a source of parts or scrap, may junk the vehicle upon presenting to the director of finance a signed statement of fact of the junking together with such other relevant facts as may be required by the director of finance, and the signed certificate of title. All nonrepairable vehicles that are junked under this section shall never again be titled or registered.”

SECTION 3. New statutory material is underscored.<sup>1</sup>



SECTION 4. This Act shall take effect upon its approval.

(Approved March 18, 1998.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 4

H.B. NO. 967

A Bill for an Act Relating to Ocean Recreation Management.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the conclusions of the Kaneohe Bay task force, which was created in 1990 by Act 208, were developed through a community-based mediated process. Through this process, the Kaneohe Bay master plan was developed and completed in May 1992. The plan contains, among other things, limits on commercial water recreation to meet the following criteria:

- (1) Reduce conflict;
- (2) Retain the rural character of Kaneohe Bay;
- (3) Safety;
- (4) Protect reefs and submerged lands;
- (5) Preserve the public interest;
- (6) Maintain consistency with AA class waters; and
- (7) Provide a fair opportunity for commercial recreation consistent with the other criteria.

The legislature further finds that the department of land and natural resources has failed to implement the recommendations of the Kaneohe Bay task force and believes that these conclusions should be fully implemented.

The purpose of this Act is to implement changes in the law regulating recreational and commercial uses of Kaneohe Bay, which were established in the Kaneohe Bay master plan.

SECTION 2. Section 200-39, Hawaii Revised Statutes, is amended to read as follows:

**“[[§200-39]] Kaneohe Bay ocean use activities; permits; restrictions.**

(a) For the purposes of this section, “ocean use activities” means commercial operation of thrill craft, high speed boating, parasailing, water sledding, sailing and snorkeling tours, [and] glassbottom boat tours[.], or any other similar commercial ocean recreation activity for hire.

(b) Any other provision of this chapter to the contrary notwithstanding, no person shall operate thrill craft, parasailing, water sledding, or commercial high speed boating unless the person meets the requirements of section 200-37 and all rules adopted by the department [which] that regulate or restrict [such] these activities.

(c) Permits issued by the department for the commercial operation of ocean use activities in Kaneohe Bay shall be limited to the number[, and locations], by permit type and vessel and passenger capacity, provided in the Kaneohe Bay master plan developed pursuant to Act 208, Session Laws of Hawaii 1990; provided that passenger capacity for snorkeling tours and glassbottom boat tours shall be set through rules adopted pursuant to chapter 91. No thrill craft permit may be transferred [more than five years] after [the effective date of this section;] June 21, 1998;

## ACT 5

provided that transfers of permits may be made at any time between family members.

(d) On Sundays and federal holidays, all commercial ocean use activities shall be prohibited.

(e) All rules adopted by the department with regard to Kaneohe Bay shall be drafted in consultation with the Kaneohe Bay regional council and shall be in accordance with, and implement the recommendations in, the Kaneohe Bay master plan developed pursuant to Act 208, Session Laws of Hawaii 1990.

(f) The Kaneohe Bay regional council shall review and revise the master plan by December 1999, with the assistance of the office of planning of the department of business, economic development and tourism and the department.'

SECTION 3. Act 317, Session Laws of Hawaii 1993, is amended by amending section 7 to read as follows:

"SECTION 7. This Act shall take effect upon its approval[, and shall be repealed on July 1, 1998]; except that SECTION 5 shall take effect on July 1, 1993."

SECTION 4. Act 258, Session Laws of Hawaii 1996, is amended by amending section 3 to read as follows:

"SECTION 3. This Act shall not apply to existing permits issued by the department of land and natural resources pursuant to section 200-39, Hawaii Revised Statutes. [Upon the repeal of section 200-39, Hawaii Revised Statutes, the provisions of chapter 200, Hawaii Revised Statutes, shall apply to the Kaneohe bay ocean use activities regulated by the department of land and natural resources.]"

SECTION 5. Act 317, Session Laws of Hawaii 1993, is amended by repealing section 4.

["SECTION 4. The office of state planning shall convene a Kaneohe Bay task force in 1997 to evaluate the status and effectiveness of the activities undertaken by the Kaneohe Bay regional council to improve circumstances relating to ocean use activities and well-being of the bay in light of the past, present, and future research programs, implementation of the 1992 Kaneohe Bay master plan by the council, and changing public and environmental circumstances."]

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved March 25, 1998.)

## ACT 5

H.B. NO. 1488

A Bill for an Act Relating to Family Child Care Homes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 346-151, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "child care facility" to read:  
"“Child care facility” means a place maintained by any individual, organization, or agency for the purpose of providing care for [three or more] children with or without charging a fee [during any part of a twenty-four hour day.] at any time. It

includes a family child care home, group child care home, and group child care center.”

2. By amending the definition of “family child care home” to read:

““Family child care home” means a private home at which care [is] may be provided for three to no more than six children[.], who are unrelated to the caregiver by blood, marriage, or adoption, at any given time.”

SECTION 2. Section 346-163, Hawaii Revised Statutes, is amended to read as follows:

**“§346-163 Licenses and temporary permits.** If satisfied that the applicant meets the minimum standards established pursuant to section 346-162 and subject to the criminal history record checks of section 346-154, the department of human services shall grant the applicant a license for the operation of a group child care home or group child care center, as the case may be. The license shall be valid for [one year]:

(1) One year for new applicants and for those who have been licensed for less than four years; and

(2) Two years for those who have been licensed for four years or more, unless sooner revoked. Where the activities of the applicant fall within the licensing requirements of the department of education and this subpart, a license shall be required from both the department of education and the department of human services.

A temporary permit may be issued for a period of six months at the department of human services’ discretion to any applicant who is temporarily unable to conform to all of the minimum standards. Renewal of the temporary permit shall be left to the department of human services’ discretion; provided that the combined period of the initial and subsequently renewed permits shall not exceed [twelve] twenty-four months. Licenses and permits shall be conspicuously posted on the licensed premises.”

SECTION 3. Section 346-165, Hawaii Revised Statutes, is amended to read as follows:

**“§346-165 Visitation and inspection of group child care home, group child care [facility.] center.** The department of human services shall visit and inspect each group child care home and group child care center as frequently as it deems necessary for the proper operation, sanitation, and safety of the home or center, as the case may be. The visits and inspections shall be made at least once annually. Every group child care home and group child care center licensed under this subpart shall be open to visitation and inspection by representatives of the department of human services, the department of education, and the department of health, and by designated representatives of the respective county fire departments at all times.”

SECTION 4. Section 346-171, Hawaii Revised Statutes, is amended to read as follows:

**“§346-171 Registration for family child care home required.** No person shall operate or maintain a family child care home unless registered to do so by the department of human services under this subpart. The registration shall be valid for:

(1) One year for new applicants and for those who have been registered for less than four years; and

(2) Two years for those who have been registered for four years or more,

## ACT 6

unless sooner revoked.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 1, 1998.)

## ACT 6

H.B. NO. 2859

A Bill for an Act Making an Emergency Appropriation for the Department of Health Adult Mental Health Division.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

SECTION 2. Although funds were appropriated to the department of health, adult mental health division, for the period beginning July 1, 1997, and ending June 30, 1998, a need for further funding exists based on a November 1997 review of services by the United States Department of Justice and the independent consulting firm, Technical Assistance Collaborative, Inc. Pursuant to the June 28, 1996, Stipulation and Order in Civil No. 91-00137-DAE, it is necessary to develop an expanded outpatient community mental health infrastructure to:

- (1) Facilitate discharge planning;
- (2) Facilitate the discharge of patients from the Hawaii State hospital; and
- (3) Provide alternatives to hospitalization.

The department of health, adult mental health division, is authorized to deposit revenue from collections into the mental health and substance abuse special fund, and to fund community mental health services from this fund. The current annual expenditure limit was budgeted and authorized at \$864,146. Presently, deposits to the special fund exceed the authorized expenditure limit.

The purpose of this Act is to increase the authorized expenditure limit for the mental health and substance abuse special fund for fiscal year 1997-1998 to develop and provide necessary community-based services for discharged patients of the Hawaii State hospital.

SECTION 3. There is appropriated out of the mental health and substance abuse special fund the additional sum of \$455,045 or so much thereof as may be necessary for fiscal year 1997-1998 to be used for community-based services for adults with serious mental illnesses.

SECTION 4. The sum appropriated shall be expended by the department of health for purposes of this Act.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 7, 1998.)

## ACT 7

H.B. NO. 2854

A Bill for An Act Making an Emergency Appropriation for the Child and Adolescent Mental Health Division.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

SECTION 2. Although funds were appropriated to the department of health for the child and adolescent mental health division for the fiscal period beginning July 1, 1997, and ending June 30, 1998, a critical funding emergency now exists. The program will expend all appropriated funds before the end of the current fiscal year, and the department will be unable to meet its fiscal obligation to provide services to certain emotionally disturbed children and adolescents. The increase in case referrals and court-directed placements are the primary contributing factors to this financial situation.

The purpose of this Act is to appropriate or authorize moneys to prevent the reduction or discontinuance of services to certain emotionally disturbed children and adolescents.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$9,663,442 or so much thereof as may be necessary for fiscal year 1997-1998 to be used for services provided to certain emotionally disturbed children and adolescents.

SECTION 4. The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 7, 1998.)

## ACT 8

H.B. NO. 3032

A Bill for an Act Making an Emergency Appropriation for Public Safety.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

SECTION 2. Act 328, Session Laws of Hawaii 1997, appropriated a certain designated sum to the department of public safety to provide funds for the operations of its programs for the fiscal period beginning July 1, 1997, and ending June 30, 1998.

The purpose of this Act is to appropriate moneys to enable the department of public safety to manage its population by transferring an additional three hundred inmates to out-of-state correctional facilities, thereby preventing the release of potentially dangerous criminal offenders because of the lack of space and the

## ACT 9

shutdown of activities at our correctional facilities, which could potentially lead to the filing of lawsuits.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$2,151,800 or so much thereof as may be necessary for fiscal year 1997-1998 for the sole purpose of transferring three hundred inmates to correctional facilities in other states.

SECTION 4. The sum appropriated shall be expended by the department of public safety for the purposes of this Act.

SECTION 5. Appropriated funds shall not be used to house inmates in facilities that are under a federal consent decree.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 7, 1998.)

## ACT 9

H.B. NO. 2788

A Bill for an Act Making an Appropriation for the Clean Hawaii Center.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

SECTION 2. Act 312, Session Laws of Hawaii 1993, established the environmental management special fund. The department of health was directed, in addition to other tasks, to fund "statewide education, demonstration, and market development programs" through the department of business, economic development, and tourism. Act 201, Session Laws of Hawaii 1994, established an advance disposal fee for glass and directed that revenues generated shall be deposited into a special account in the environmental management fund.

The clean Hawaii center is a program within the department of business, economic development, and tourism and is responsible for promoting recycling and remanufacturing businesses in the State. Act 83, Session Laws of Hawaii 1996, established the clean Hawaii fund to be administered by the department of business, economic development, and tourism to support the activities of the clean Hawaii center. Funds from the environmental management special fund have been allocated by the director of health for use under the clean Hawaii fund. The moneys received by the department of business, economic development, and tourism from the environmental management special fund have been deposited into the clean Hawaii fund. Federal funds will also be deposited into the clean Hawaii fund. The clean Hawaii center provides support to local businesses that manufacture products from waste such as paper, glass, plastics, greenwaste, and construction demolition materials.

SECTION 3. There is appropriated from the clean Hawaii fund, energy development and management (BED 120) the sum of \$200,000 for fiscal year 1997-1998. This sum shall be expended by the clean Hawaii center of the department of business, economic development, and tourism to expand and develop recycling or remanufacturing businesses in Hawaii.

SECTION 4. Any unexpended or unencumbered balance of the authorization made by this Act at the close of business on June 30, 1998, shall lapse into the clean Hawaii fund.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 7, 1998.)

## ACT 10

S.B. NO. 2773

A Bill for an Act Relating to Plant and Non-domestic Animal Quarantine.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 150A-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No person shall transport, receive for transport, or cause to be transported to the State, for the purpose of debarkation or entry thereinto, any of the following:

- (1) Soil; provided that limited quantities of soil may be imported into the State for experimental or other scientific purposes under permit with conditions prescribed by the department;
- (2) Rocks, plants, plant products, or any article with soil adhering thereto;
- (3) Any live snake, flying fox, fruit bat, Gila monster, injurious insect, or eels of the order Anguilliformes, or any other animal, plant, or micro-organism in any stage of development that is detrimental or potentially harmful to agriculture, horticulture, animal or public health, or natural resources, including native biota, or has an adverse effect on the environment as determined by the board[; provided], except that, notwithstanding the list of animals prohibited entry into the State, the department may bring into and maintain in the State one live, sterile brown tree snake of the male sex for the purpose of research or training of snake detector dogs, and, further, that a government agency may bring into and maintain in the State not more than two live, nonvenomous snakes of the male sex solely for the purpose of exhibition in a government zoo, but only after:
  - (A) The board is presented with satisfactory evidence that the sex of the snakes was established to be male prior to the shipment; and
  - (B) The board gives written approval conditioned upon such terms as the board may deem necessary, which terms shall include [the] measures to assure the prevention of escape, continuing supervision and control by the board[,] with respect to any department import under this paragraph, and [shall provide that the board may determine] the manner in which the snakes shall be disposed of or destroyed.

In case of the death of one or [both] more snakes, the department or government agency may import and maintain replacements subject to the conditions described in this paragraph; and

- (4) Any live or dead honey bees, or used bee equipment that is not certified by the department to be free of pests; provided that nothing in this paragraph shall be construed to prohibit the importation of bee semen.”

## ACT 11

SECTION 2. Section 150A-7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) It is a violation of section 150A-6 to bring to or possess in the State any living creature that is prohibited, or restricted and without a permit issued by the department, and such a creature shall constitute contraband and shall be seized immediately upon discovery whenever found, and be destroyed, donated to a government zoo, or sent out of the State, at the discretion of the department. Any expense or loss in connection therewith shall be borne by the owner or the owner’s agent. The foregoing shall not apply to any snake which is brought into the State by the department for the purpose of research or training of snake detector dogs, or by a government agency solely for the purpose of exhibition in a government zoo pursuant to section 150A-6(a)(3).”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 7, 1998.)

## ACT 11

H.B. NO. 2447

A Bill for an Act Relating to Statutory Revision: Amending, Reenacting, or Repealing Various Provisions of the Hawaii Revised Statutes and the Session Laws of Hawaii for the Purpose of Correcting Errors and References, Clarifying Language, and Deleting or Repealing Obsolete or Unnecessary Provisions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 26-14.6, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) Effective July 1, 1990, the functions, authority, and obligations, together with the limitations imposed thereon and the privileges and immunities conferred thereby, exercised by a ‘sheriff’, ‘sheriffs’, a ‘sheriff’s deputy’, ‘sheriff’s deputies’, a ‘deputy sheriff’, ‘deputy sheriffs’, or a ‘deputy’, under sections 21-8, 47-18, 88-51, 105-4, 134-11, 134-51, 183D-11, 187A-14, 231-25, 281-108, 281-111, 286-52, 286-52.5, 321-1, 322-6, 325-9, 325-80, 353-11, [360-5, 360-14,] 201G-55, 201G-74, 383-71, 438-5, 445-37, 482E-4, 485-6, 501-42, 501-171, 501-218, 521-78, 578-4, 584-6, 587-33, 603-29, 604-6.2, 606-14, 607-2, 607-4, 607-8, 633-8, 634-11, 634-12, 634-21, 634-22, 651-33, 651-37, 651-51, 654-2, 655-2, 657-13, 660-16, 666-11, 666-21, 803-23, 803-34, 803-35, 804-14, 804-18, 804-41, 805-1, 806-71, and 832-23 shall be exercised to the same extent by the department of public safety.”

SECTION 2. Section 29-15.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) This section shall not affect sections [201E-161(b)(2),] 201G-312(b)(2), 212-7, or 523A-64.”

SECTION 3. Section 76-9, Hawaii Revised Statutes, is amended to read as follows:



“**§76-9 Employees of the judiciary.** It is the intent of the legislature that the personnel of the judiciary shall form a separately administered part of the system of personnel administration established by this chapter and chapter 77, unless specifically exempted by this chapter or any other law; provided that:

- (1) The judiciary shall have a status coequal with the executive branch of the State and with the several counties for purposes of the development of a position classification plan, the formulation of personnel rules and regulations, and the administration of the judiciary personnel system, including, but not limited to the classification, reclassification, allocation, and reallocation of a particular position, the publication of a vacancy announcement, the examination of applicants, and the preparation of eligible lists;
- (2) In the development of a position classification plan, the formulation of personnel rules and regulations, and the administration of the judiciary personnel system, the chief justice or the chief justice’s designee shall consult with the director of [personnel services;] human resources development;
- (3) Any action of the chief justice or the chief justice’s designee including the classification, reclassification, allocation, and reallocation of a particular position, the publication of a vacancy announcement, the examination of applicants, the preparation of an eligible list, and appeals from suspensions, dismissals and demotions may be appealed by any person, employee or the exclusive bargaining unit representative to the judiciary personnel appeals board. The board shall be composed of three members, one representative from the department of [personnel services,] human resources development, one representative of the judiciary and one exclusive bargaining unit representative. The provisions contained in section 26-34 shall not apply to the members of the judiciary personnel appeals board. The board shall sit as an appellate body on matters within the jurisdiction of the judiciary with equal authority as the civil service commission established by section 26-5;
- (4) Nothing in chapters 76 and 77 shall be construed to require the approval of the governor or any executive agency for the judiciary to establish such positions in the judicial branch as may be authorized and funded by the legislature.”

SECTION 4. Section 76-22.5, Hawaii Revised Statutes, is amended to read as follows:

“[[§76-22.5[)] **Recruitment flexibility.** Notwithstanding section 76-23, the director of [personnel services] human resources development shall determine, establish, and maintain the manner in which positions shall be filled in accordance with section 78-1 and the following standards:

- (1) Equal opportunity for all regardless of race, sex, age, religion, color, ancestry, physical handicap, or politics;
- (2) First consideration for competent employees already within public service; and
- (3) Impartial selection of the ablest person through competitive means which are fair, objective, and practical.”

SECTION 5. Section 103D-108, Hawaii Revised Statutes, is amended to read as follows:

**“[[§103D-108]] Compliance audit unit; duties and responsibilities.**

The compliance audit unit shall:

- (1) Review and assess applicable innovations in procurement methods or processes in other governmental jurisdictions or as described in national or regional publications;
- (2) Review current or proposed statutes and rules to determine whether they promote fairness, efficiency, and accountability in the procurement process;
- (3) Review selected contracts awarded pursuant to section 103D-304;
- (4) Conduct studies, research, and analyses, and make reports and recommendations with respect to existing and new methods of procurement and other matters within the jurisdiction of the policy [office;] board;
- (5) Establish and maintain a procurement library;
- (6) Report to the appropriate agency and the chief procurement officer stating the areas of noncompliance and recommendations for remedial action; and
- (7) Be present at legislative hearings and policy [office] board meetings to present the findings of the unit.”

SECTION 6. Section 103D-209, Hawaii Revised Statutes, is amended to read as follows:

**“§103D-209 Authority to contract for certain services.** Except as provided in section 28-8.3 with respect to agencies of the State of Hawaii, any governmental body of this State may act as a purchasing agency and contract on its own behalf for professional services subject to this chapter and rules adopted by the policy [[board]]. The purchasing agency may consult with the chief procurement officer or the officer’s designee when procuring these services.”

SECTION 7. Section 103D-407, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) When purchasing roadway materials or other high-value, end-use applications for public projects, state agencies shall, and county agencies may, purchase materials with minimum recycled glass content meeting specifications adopted by the policy [[board]] which, at a minimum, shall provide for:

- (1) A minimum recycled glass content of ten per cent crushed aggregate in treated or untreated basecourse in paving materials that shall not reduce the quality standards for highway and road construction; and
- (2) The use of one hundred per cent aggregate in nonstructural capital improvement applications.”

SECTION 8. Section 103D-803, Hawaii Revised Statutes, is amended to read as follows:

**“[[§103D-803]] Sale, acquisition, or use of goods by a public procurement unit.** Any public procurement unit may sell to, acquire from, or use any goods belonging to another public procurement unit or external procurement [[unit]] independent of the requirements of parts III and XII.”

SECTION 9. Section 103D-804, Hawaii Revised Statutes, is amended to read as follows:

**“§103D-804 Cooperative use of goods or services.** A public procurement unit may enter into an agreement, independent of the requirements of parts III and

XII, with any other public procurement unit, external procurement [ [ ]unit[ ]], or nonprofit private health and human services organizations for the cooperative use of goods or services under the terms agreed upon between the parties pursuant to rules adopted by the policy board.”

SECTION 10. Section 103D-805, Hawaii Revised Statutes, is amended to read as follows:

“[[§103D-805[ ]] **Joint use of facilities.** Any public procurement unit may enter into agreements for the common use or lease of warehousing facilities, capital equipment, and other facilities with another public procurement unit or an external procurement [activity] unit under the terms agreed upon between the parties.”

SECTION 11. Section 103D-806, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

“(a) Any public procurement unit is authorized, in its discretion, upon written request from another public procurement unit or external procurement [activity,] unit, to provide personnel to the requesting public procurement unit or external procurement [activity.] unit. The public procurement unit or external procurement [activity] unit making the request shall pay the public procurement unit providing the personnel the direct and indirect cost of furnishing the personnel, in accordance with an agreement between the parties.

(b) The informational, technical, and other services of any public procurement unit may be made available to any other public procurement unit or external procurement [activity] unit provided that the requirements of the public procurement unit tendering the services shall have precedence over the requesting public procurement unit or external procurement [activity.] unit. The requesting public procurement unit or external procurement [activity] unit shall pay for the expenses of the services so provided, in accordance with an agreement between the parties.

(c) Upon request, the chief procurement officer may make available to public procurement units or external procurement [activities,] units, any of the following services, among others:

- (1) Standard forms;
- (2) Printed manuals;
- (3) Product specifications and standards;
- (4) Quality assurance testing services and methods;
- (5) Qualified products lists;
- (6) Source information;
- (7) Common use commodities listings;
- (8) Supplier prequalification information;
- (9) Supplier performance ratings;
- (10) Debarred and suspended bidders lists;
- (11) Forms for invitations for bids, requests for proposals, instructions to bidders, general contract provisions, and other contract forms; and
- (12) Contracts or published summaries of contracts, including price and time of delivery information.”

SECTION 12. Section 103D-807, Hawaii Revised Statutes, is amended to read as follows:

“[[§103D-807[ ]] **Use of payments received by a supplying public procurement unit.** All payments from any public procurement unit or external procurement [activity] unit received by a public procurement unit supplying personnel or

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services shall be available to the supplying public procurement unit as authorized by law.”

SECTION 13. Section 103D-808, Hawaii Revised Statutes, is amended to read as follows:

“~~[[ §103D-808]]~~ **Public procurement units in compliance with requirements of this chapter.** Where the public procurement unit or external procurement [activity] unit administering a cooperative purchase complies with the requirements of this chapter, any public procurement unit participating in the purchase shall be considered to have complied with this chapter. Public procurement units shall not enter into a cooperative purchasing agreement for the purpose of circumventing this chapter.”

SECTION 14. Section 166-3, Hawaii Revised Statutes, is amended to read as follows:

“**§166-3 Authority to plan, develop, and manage agricultural parks.** The department of agriculture shall plan, develop, and manage agricultural parks in accordance with this chapter, on public lands set aside by the governor for use as agricultural parks pursuant to section 171-11; on other lands with the approval of the board of agriculture as may be subject to a partnership agreement pursuant to sections 166-4 and 166-5; and on lands acquired by the department by way of foreclosure, voluntary surrender, or otherwise pursuant to section [155-4(12).] 155-4(11).”

SECTION 15. Section 206-1, Hawaii Revised Statutes, is amended by amending the definition of “lands” to read as follows:

““Lands” means either undeveloped lands or land together with improvements and appurtenances and includes real property as defined in section [356-2.] 201G-1. All lands owned by the State or any political subdivision or the federal government are “government lands”. All other lands are “private lands”.”

SECTION 16. Section 269-1, Hawaii Revised Statutes, is amended by amending the definition of “public utility” to read as follows:

““Public utility” includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use, for the transportation of passengers or freight, or the conveyance or transmission of telecommunications messages, or the furnishing of facilities for the transmission of intelligence by electricity by land or water or air within the State, or between points within the State, or for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil, or for the storage or warehousing of goods, or the disposal of sewage; provided that the term:

- (1) Shall include any person insofar as that person owns or operates a private sewer company or sewer facility;
- (2) Shall include telecommunications carrier or telecommunications common carrier;
- (3) Shall not include any person insofar as that person owns or operates an aerial transportation enterprise;
- (4) Shall not include persons owning or operating taxicabs, as defined in this section;

- (5) Shall not include common carriers transporting only freight on the public highways, unless operating within localities or along routes or between points that the public utilities commission finds to be inadequately serviced without regulation under this chapter;
- (6) Shall not include persons engaged in the business of warehousing or storage unless the commission finds that regulation thereof is necessary in the public interest;
- (7) Shall not include:
  - (A) The business of any carrier by water to the extent that the carrier enters into private contracts for towage, salvage, hauling, or carriage between points within the State and the carriage is not pursuant to either an established schedule or an undertaking to perform carriage services on behalf of the public generally; and
  - (B) The business of any carrier by water, substantially engaged in interstate or foreign commerce, transporting passengers on luxury cruises between points within the State or on luxury round-trip cruises returning to the point of departure;
- (8) Shall not include any person who:
  - (A) Controls, operates, or manages plants or facilities for the production, transmission, or furnishing of power primarily or entirely from nonfossil fuel sources; and
  - (B) Provides, sells, or transmits all of that power, except such power as is used in its own internal operations, directly to a public utility for transmission to the public;
- (9) Shall not include a telecommunications provider only to the extent determined by the commission pursuant to section 269-16.9; and
- (10) Shall not include any person who controls, operates, or manages ~~[[ ]plants[ ]~~ or facilities developed pursuant to chapter 167 for conveying, distributing, and transmitting water for irrigation and such other purposes that shall be held for public use and purpose.

In the event the application of this chapter is ordered by the commission in any case provided in paragraphs (5), (6), (9), and (10), the business of any public utility that presents evidence of bona fide operation on the date of the commencement of the proceedings resulting in the order shall be presumed to be necessary to public convenience and necessity, but any certificate issued under this proviso shall nevertheless be subject to such terms and conditions as the commission may prescribe, as provided in sections 269-16.9 and 269-20.”

SECTION 17. Section 269-33, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established in the state treasury a public utilities commission special fund to be administered by the public utilities commission. The proceeds of the fund shall be used by the public utilities commission and the division of consumer advocacy of the department of commerce and consumer affairs for all expenses incurred in the administration of chapters 269, 271, 271G, and [486I;] 486J; provided that the expenditures of the public utilities commission shall be in accordance with legislative appropriations. On a quarterly basis, an amount not exceeding thirty per cent of the proceeds remaining in the fund after the deduction for central service expenses, pursuant to section 36-27, shall be allocated by the public utilities commission to the division of consumer advocacy; provided that all moneys allocated by the public utilities commission from the fund to the division of consumer advocacy shall be in accordance with legislative appropriations.”

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SECTION 18. Section 330-8, Hawaii Revised Statutes, is amended to read as follows:

**“§330-8 Use of certain chemical substances as inhalants unlawful.** It shall be unlawful for any person to use as an inhalant any substance, not a “food” as defined in section [328-1(3),] 328-1, which substance includes in its composition volatile organic solvents including amylacetate, trichloroethylene, and acetone or any other chemical substance, capable of producing upon inhalation any degree of intoxication; provided that this section shall not apply to any person using as an inhalant any such chemical substance pursuant to the direction of a physician.”

SECTION 19. Section 353-22.8, Hawaii Revised Statutes, is amended to read as follows:

**“§353-22.8 Orders for payment of child support.** The director of public safety shall comply with orders for payment of child support from inmate individual trust accounts to the child support enforcement agency pursuant to section 571-52, 571-52.2, 576D-14, or 576E-16, this section, or chapter [576 or its successor.] 576B. When the total of all new deposits and credits to the inmate’s individual trust account in a given month is less than or equal to \$15, no payment shall be made for child support that month out of the trust account. When the total of all new deposits and credits to the inmate’s individual trust account in a given month exceeds \$15, no more than thirty per cent of the total new deposit or credit to the individual’s trust account shall be paid for child support out of the account for that month.”

SECTION 20. Section 412:7-306, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

“(h) To the extent specified herein, a savings and loan association may invest its own assets in limited partnerships formed to invest in residential properties which will qualify for the low income housing tax credit under section 42 of the Internal Revenue Code of 1986, as amended, and under chapters 235 and 241; provided that the total amount invested by a savings and loan association under this subsection in any one limited partnership shall not, without the prior approval of the commissioner, exceed two per cent of the savings and loan association’s capital and surplus and the aggregate amount invested under this subsection shall not, without the prior approval of the commissioner, exceed five per cent of the savings and loan association’s capital and surplus. In no case shall the aggregate amount invested by a savings and loan association under this subsection exceed ten per cent of the savings and loan association’s capital and surplus.”

SECTION 21. Section 428-1007, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) The foreign limited liability company, with the approval of the director, may omit the publication of the notice if the foreign limited liability company has insufficient assets to pay for the publication.”

SECTION 22. Section 428-1204, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The director may direct to any limited liability company or foreign limited liability company subject to this chapter, and to any member or manager of any limited liability company or foreign limited liability company subject to this chapter, any interrogatories reasonably necessary and proper to enable the director to ascertain whether the limited liability company or foreign limited liability company

has complied with all of the provisions of this chapter applicable to the limited liability company or foreign limited liability company.

The interrogatories shall be answered within thirty days after the date of mailing, or within such additional time as shall be fixed by the director. The answers to the interrogatories shall be full and complete and shall be made in writing and under oath. If the interrogatories are directed to an individual, they shall be answered by the individual, and if directed to a limited liability company or foreign limited liability company, they shall be answered by a manager of a manager-managed company, a member of a member-managed company, or fiduciary if the company is in the hands of a receiver, trustee, or other court appointed fiduciary.

The director need not file any record in a court of competent jurisdiction to which the interrogatories relate until the interrogatories are answered as provided in this section, and not then if the answers thereto disclose that the record is not in conformity with the requirements of this chapter. The director shall certify to the attorney general, for such action as the attorney general may deem appropriate, all interrogatories and answers which disclose a violation of this chapter.”

SECTION 23. Section 428-1301, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§428-1301]]~~ Fees. The following fees shall be paid to the director upon the filing and issuance of records under this chapter:

- (1) Articles of organization, \$100;
- (2) Articles of amendment, \$50;
- (3) Restated articles of organization, \$50;
- (4) Articles of merger, \$200;
- (5) Statement of dissociation, \$50;
- (6) Articles of termination, \$50;
- (7) Application for reinstatement for administratively terminated limited liability company, \$50;
- (8) Annual report, \$25;
- (9) Statement of change of designated office or agent for service of process, or both, for limited liability company or foreign limited liability company, \$50;
- (10) Statement of resignation of agent for service of process, \$50;
- (11) Any other statement or document of a domestic or foreign limited liability company, \$50;
- (12) Application for certificate of authority for foreign limited liability company, \$100;
- (13) Application for cancellation of authority of foreign limited liability company, \$50;
- (14) Reservation of name, \$25;
- (15) Good standing certificate, \$25;
- (16) Any other record not otherwise covered in this part, \$50;
- (17) Certified copy of any record relating to a limited liability company or foreign limited liability company, 25 cents per page, and \$10 for the certificate and affixing the seal thereto;
- (18) Special handling fee for review of any record other than articles of merger, \$80;
- (19) Special handling fee for review of articles of merger, \$200;
- (20) Special handling fee for certificates issued by the director not otherwise covered by this part, \$10 per certificate;
- (21) Special handling fee for certification of record, \$1 per page; and

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- (22) Any service of notice, demand, or process upon the director as agent for service of process of a limited liability company or foreign limited liability company, \$50, which amount may be recovered as taxable costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action.

All special handling fees shall be credited to the special fund authorized by section 415-128.”

SECTION 24. Section 514A-14.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) This section does not apply:

- (1) To apartments developed under chapters [356,] 201G and 359[, and 201G]; and
- (2) To apartments in a mixed-use project developed under chapter 206E that has a shared parking program approved by the Hawaii community development authority; provided that such a program shall require the availability of the use of not less than one parking space per apartment.”

SECTION 25. Section 514A-62, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Unless such right has previously been waived pursuant to subsection (a), a prospective purchaser shall have the right to cancel any agreement for the [[purchase[]] or reservation of an apartment at any time prior to the earlier of:

- (1) The conveyance of the apartment to the prospective purchaser; or
- (2) Midnight of the thirtieth day following the date of delivery of the first of either the contingent final public report or the final public report to such purchaser,

and, upon any such cancellation, shall be entitled to a prompt and full refund of all moneys paid, less any escrow cancellation fee and other costs associated with the [[purchase[]], up to a maximum of \$250.”

SECTION 26. Section 516-31, Hawaii Revised Statutes, is amended to read as follows:

“**§516-31 Disposition by lease.** The housing and community development corporation of Hawaii may lease any of the residential lots in a development tract at such lease rentals and upon such terms and conditions as it may determine. The leases shall be subject to all of the rights of lessees enumerated in part III of this chapter. The corporation may, in its discretion, utilize any of the residential lots and rent out the same for periods of twenty years or less for the purposes set forth in chapters [356 to 360,] 201G and 359, or for any other purpose, all upon such terms and conditions as the corporation may determine.”

SECTION 27. Section 521-7, Hawaii Revised Statutes, is amended to read as follows:

“**§521-7 Exclusions from application of chapter.** Unless created solely to avoid the application of this chapter, this chapter shall not apply to:

- (1) Residence at an institution, whether public or private, where residence is merely incidental to detention or the provision of medical, geriatric, educational, religious, or similar services;
- (2) Residence in a structure directly controlled and managed by the University of Hawaii for housing students or faculty of the University of



- Hawaii or residence in a structure erected on land leased from the University of Hawaii by a nonprofit corporation for the exclusive purpose of housing students or faculty of the University of Hawaii;
- (3) Occupancy under a bona fide contract of sale of the dwelling unit or the property of which it is a part where the tenant is, or succeeds to the interest of, the purchaser;
  - (4) Residence by a member of a fraternal organization in a structure operated without profit for the benefit of the organization;
  - (5) Transient occupancy on a day-to-day basis in a hotel or motel;
  - (6) Occupancy by an employee of the owner or landlord whose right to occupancy is conditional upon such employment or by a pensioner of the owner or landlord or occupancy for a period of up to four years subsequent thereto, pursuant to a plan for the transfer of the dwelling unit or the property of which it is a part to the occupant;
  - (7) A lease of improved residential land for a term of fifteen years or more, measured from the date of the commencement of the lease;
  - (8) Occupancy by the prospective purchaser after an accepted offer to purchase and prior to the actual transfer of the owner's rights;
  - (9) Occupancy in a homeless facility, or any other program for the homeless authorized under chapter [358D;] 201G, part IV;
  - (10) Residence or occupancy in a public housing complex or shelter directly controlled, owned, or managed by the housing and community development corporation of Hawaii; or
  - (11) Residence or occupancy in a transitional facility for abused family or household members.”

SECTION 28. Section 571-84.5, Hawaii Revised Statutes, is amended to read as follows:

“**[[]§571-84.5[]] Support order, decree, judgment, or acknowledgment; social security number.** The social security number of any individual who is a party to a divorce decree, or subject to a support order or paternity determination, or has made an acknowledgment of paternity issued under this chapter or chapter [576,] 576B, 580, or 584 shall be placed in the records relating to the matter.”

SECTION 29. Section 576E-2, Hawaii Revised Statutes, is amended to read as follows:

“**§576E-2 Attorney general; powers.** Notwithstanding any other law to the contrary, the attorney general, through the agency and the office, shall have concurrent jurisdiction with the court in all proceedings in which a support obligation is established, modified, or enforced, including but not limited to proceedings under chapters 571, 580, 584, and 576B, the Uniform Interstate Family Support Act. The attorney general, through the agency and the office, may establish, modify, suspend, terminate, and enforce child support obligations and collect or enforce spousal support using the administrative process provided in this chapter on all cases for which the department has a responsibility under Title IV-D of the Social Security Act, including but not limited to welfare and nonwelfare cases in which the responsible parent is subject to the department's jurisdiction, regardless of the residence of the children for whom support is sought. These powers shall include but not be limited to the power to:

- (1) Conduct investigations into the ability of parties to pay support and into nonpayment of support;

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- (2) Administer oaths, issue subpoenas, and require production of books, accounts, documents, and evidence;
- (3) Establish, modify, suspend, terminate, or enforce a child support order and to collect or enforce a spousal support order in conjunction with a child support order;
- (4) Determine that a party has not complied with a court or administrative order and make recommendations to the court or other agency with respect to contempt or other appropriate proceedings;
- (5) Establish arrearage;
- (6) Establish a public assistance debt under section 346-37.1;
- (7) Order and enforce assignment of future income under section 576E-16, chapter 571, and section 576D-14;
- (8) Exercise the powers and authority described in this section, notwithstanding the existence of a prior court or administrative order issued by another state or foreign jurisdiction, except as modified or limited by this chapter;
- (9) Determine that an obligor owes past-due support with respect to a child receiving assistance under a state program funded under Title IV-A of the Social Security Act, including Aid to Families with Dependent Children and Temporary Assistance to Needy Families and petition the court to issue an order that requires the obligor to pay such support in accordance with a plan approved by the court or, if the obligor is subject to such a plan and is not incapacitated, participate in work activities, as defined in 42 U.S.C. §607(d), as the court deems appropriate;
- (10) Order genetic testing pursuant to chapter 584 for the purpose of establishing paternity;
- (11) Exercise the powers and authority described in this section, notwithstanding the existence of a prior court or administrative order issued by another state or foreign jurisdiction, except as modified or limited by this chapter and chapter ~~[[576B, the Uniform Interstate Family Support Act]]~~; and
- (12) Delegate the powers and authority described in this section to hearings officers and employees of the agency.”

SECTION 30. Section 576E-10, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) In exercising the powers conferred upon the attorney general in section 576E-2, the hearings officers shall have the authority to conduct hearings and enter the following orders:

- (1) Child support orders which have the effect of modifying, suspending, terminating, or enforcing the child support provisions of orders of the family courts;
- (2) Child support orders establishing, modifying, suspending, terminating, or enforcing child support obligations;
- (3) Orders enforcing the collection of spousal support when child support is being established, modified, or enforced;
- (4) Income withholding orders pursuant to section 576E-16;
- (5) Automatic income assignment orders pursuant to sections 571-52.2 and 576D-14;
- (6) Interstate income withholding orders pursuant to chapter ~~[576 or its successor;]~~ 576B;
- (7) State income tax refund setoff orders pursuant to section 231-54;

- (8) Orders determining whether Aid to Families with Dependent Children pass through payments were properly distributed;
- (9) Orders determining whether a party should be required to post bond in order to secure payment of past due support pursuant to section 576D-6;
- (10) Medical insurance coverage orders;
- (11) Orders suspending or denying the granting, the renewal, the reinstatement, or the restoration of licenses or applications of an obligor or individual for noncompliance with an order of support or failure to comply with a subpoena or warrant relating to a paternity or child support proceeding, and authorizations allowing the reinstatement of suspended licenses or consideration of license applications pursuant to section 576D-13; and
- (12) Orders in other child support areas as authorized by the attorney general.”

SECTION 31. Section 577-14, Hawaii Revised Statutes, is amended to read as follows:

**“§577-14 Children born to parents not married to each other; support.**

Except as otherwise provided by law, children whose parents have not been legally married, in contemplation of chapter 572, shall be designated as children whose parents have not been married to [[each[]] other at the time of the children’s birth, provided that any person, who in writing duly acknowledged before an officer authorized to take acknowledgments declares himself to be the father of those children, shall be compellable to provide those children with necessary maintenance and support and to pay the expenses of the mother’s pregnancy and confinement. The mothers in all cases shall be compellable to maintain and support them during their minority.”

SECTION 32. Section 634-37, Hawaii Revised Statutes, is amended to read as follows:

**“[[§634-37[]] Presumption of notice and service of process in child support cases.** Whenever notice and service of process is required for child support enforcement proceedings subsequent to an order issued pursuant to chapter 571, [576 or its successor,] 576B, 576E, 580, or 584, upon a showing that diligent effort has been made to ascertain the location of a party, notice and service of process shall be presumed to be satisfied upon delivery of written notice to the most recent residential or employer address on file with the state case registry pursuant to section 571-52.6.”

SECTION 33. Act 200, Session Laws of Hawaii 1994, is amended by amending section 17 to read as follows:

“SECTION 17. This Act shall take effect on July 1, 1994, and shall be repealed on December 31, 1997[.]; provided that section 78-4 shall be reenacted in the form in which it read on the day before the approval of this Act.”

SECTION 34. Act 236, Session Laws of Hawaii 1997, is amended by amending the prefatory language in section 1 to read as follows:

“SECTION 1. [Chapter] Section 304-7, Hawaii Revised Statutes, is amended to read as follows:”

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SECTION 35. Act 236, Session Laws of Hawaii 1997, is amended by amending the prefatory language in section 2 to read as follows:

“SECTION 2. [Chapter] Section 304-9, Hawaii Revised Statutes, is amended to read as follows:”

SECTION 36. Act 251, Session Laws of Hawaii 1997, is amended by amending the prefatory language in section 55 to read as follows:

“SECTION 55. Section [413:12-101.] 431:12-101, Hawaii Revised Statutes, is amended to read as follows:”

SECTION 37. Act 367, Session Laws of Hawaii 1997, is amended by amending the prefatory language in section 2 to read as follows:

“SECTION 2. Section [431:1-502.] 432:1-502, Hawaii Revised Statutes, is amended to read as follows:”

SECTION 38. This Act shall be amended to conform to all other acts passed by the legislature during this regular session of 1998, whether enacted before or after the effective date of this Act, unless the other acts specifically provide otherwise.

SECTION 39. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 40. This Act shall take effect upon its approval; provided that:

- (1) Sections 1, 2, 15, 24, 26, and 27 shall take effect on July 1, 1998;
- (2) Section 33 shall take effect retroactive to July 1, 1994;
- (3) Sections 34 and 35 shall take effect retroactive to June 17, 1997;
- (4) Section 36 shall take effect retroactive to January 1, 1998; and
- (5) Section 37 shall take effect retroactive to July 3, 1997.

(Approved April 7, 1998.)

## ACT 12

H.B. NO. 2695

A Bill for an Act Relating to Higher Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 318, Hawaii Revised Statutes, is repealed.

SECTION 2. This Act shall take effect upon its approval.

(Approved April 7, 1998.)

## ACT 13

H.B. NO. 2787

A Bill for an Act Relating to the Development of the Kalaeloa Community Development District.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to redefine the boundaries of the Kalaeloa community development district. The intent of this legislation is to provide

for a coordinated approach to infrastructure modernization in the form of utilities and road improvements using federal and State funding sources, which may include revenue bonds. The operations, management and maintenance of the Kalaeloa airport and lands to be conveyed to the department of Hawaiian home lands remain the responsibility of the department of transportation and department of Hawaiian home lands respectively.

SECTION 2. The legislature finds that in establishing the boundaries of the Kalaeloa community development district, the property to be conveyed to the department of transportation for use as an airport and to the department of Hawaiian home lands was not included in the district. It is important that these lands be included in the district to ensure their qualification for federal and State funding assistance and in the master planning and subsequent improvements to be made to the Kalaeloa community development district by the Barbers Point naval air station redevelopment commission in accordance with Act 359, SLH 1997.

SECTION 3. Section 206G-6, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§206G-6]]~~ **District established; boundaries.** The Kalaeloa community development district is established and shall include all lands within tax map key numbers 9-1-31:28, 9-1-13:09, and 9-1-13:01, excluding those areas to be[:

- (1) Retained] retained by the federal government[;
- (2) Conveyed as an airport complex to the department of transportation;  
and
- (3) Conveyed to the department of Hawaiian home lands].”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 1998.

(Approved April 7, 1998.)

## ACT 14

H.B. NO. 2802

A Bill for an Act Making an Emergency Appropriation for the Unclaimed Property Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act is recommended by the Governor for immediate passage in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

SECTION 2. Act 328, Session Laws of Hawaii 1997, appropriated a certain designated sum to the department of budget and finance to provide funds for the payment of claims under the unclaimed property program as set forth in chapter 523A, Hawaii Revised Statutes, for the fiscal year beginning July 1, 1997 and ending June 30, 1998.

The unclaimed property program will expend all appropriated funds before the end of the fiscal year and will be unable to meet its fiscal obligations to satisfy claims filed against it.

## ACT 15

The purpose of this Act is to appropriate additional moneys to satisfy claims filed with the unclaimed property program.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,000,000, or so much thereof as may be necessary for fiscal year 1997-1998, to be used for the payment of judgments and claims under the unclaimed property program.

SECTION 4. The sum appropriated shall be expended by the department of budget and finance for the purposes of this Act.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 7, 1998.)

## ACT 15

H.B. NO. 2997

A Bill for an Act Making an Appropriation for Tourism Marketing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9, article VII, of the constitution of the State of Hawaii, for the Miss Universe Pageant to be held in Hawaii in mid-May 1998. The immediate passage of this Act will facilitate the hosting of this event by augmenting private sector funds and in-kind contributions.

SECTION 2. Act 328, Session Laws of Hawaii 1997, appropriated general funds to the state tourism office (BED 113) for fiscal year 1997-1998. The department of business, economic development, and tourism recognizes the importance of diversifying Hawaii's tourism product and leveraging marketing activities to maximize the industry's financial impact on the State. Particularly in these times of fiscal uncertainty, accentuated by the recent Asian financial crises, the State will continue to look for ways to promote Hawaii's primary industry. The governor and the Hawaii visitors and convention bureau have established a preliminary host committee which has determined the economic feasibility of hosting the 1998 Miss Universe Pageant in Honolulu, which presents an opportunity to further diversify Hawaii's tourism product and leverage marketing activities including the following benefits:

- (1) The pageant is telecast to approximately seventy-five nations worldwide with a potential viewing audience of two and a half billion people;
- (2) The broadcast of this forty-six-year-old, major entertainment event is one of the most watched programming in the world;
- (3) At least three minutes of the Miss Universe Pageant telecast is devoted to promoting the host community as a visitor destination and another six to seven minutes are spent featuring the finalists at various locations in the host community;
- (4) As host, Hawaii will receive major United States network exposure in a prime-time, two-hour, live television special. Throughout the telecast, the special will showcase the unsurpassed beauty and diversity of experiences available in the Islands, clearly portraying Hawaii as the host of the pageant;

- (5) Advertising exposure from the pageant is estimated to be about \$4,000,000 in the United States market;
- (6) Resulting employment is estimated to be worth \$1,500,000 to \$2,000,000, and in addition to direct local employment, includes expenditures for event production purchases and rentals and increased traffic in Hawaii's restaurants, hotels, tourist attractions, and other businesses;
- (7) The pageant is expected to attract at least two thousand visitors, generate more than \$9,000,000 million in immediate economic benefits, and millions of dollars more in spending by new visitors coming to the Islands as a result of positive impressions from the pageant telecast;
- (8) Resulting show promotions on the CBS network are valued at \$200,000;
- (9) Resulting public relations coverage of Hawaii is valued at \$200,000; and
- (10) Community-wide local sponsor support and cooperation, including in-kind contributions from tourism- and non-tourism-related businesses, afford Hawaii the opportunity to host the pageant at a cost much lower than actual value.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,300,000 or so much thereof or may be necessary for fiscal year 1997-1998, as required to host the 1998 Miss Universe Pageant.

SECTION 4. The sum appropriated shall be expended by the department of business, economic development, and tourism through a contract with the Hawaii visitors and convention bureau for the purposes of this Act; provided that the department of business, economic development, and tourism, through its contract with the Hawaii visitors and convention bureau, shall be allowed to expend funds appropriated under this Act for salaries, benefits, related taxes, and any and all other personnel-related costs to hire workers for the Miss Universe Pageant.

SECTION 5. Any excess funds from the appropriation resulting from a reduction in costs shall be returned to the general fund.

SECTION 6. The Hawaii visitors and convention bureau shall report to the legislature on its tourism marketing plans for the Miss Universe Pageant no later than thirty days after the release of funds appropriated by this Act. A second report outlining the preliminary results of the appropriation including:

- (1) Estimated reach and estimated value of advertising and public relations;
- (2) Direct local employment;
- (3) Resulting increase in visitor arrivals and visitor expenditures; and
- (4) Tax revenues,

shall be submitted within sixty days after the event has taken place. A final report shall be submitted to the legislature no later than twenty days prior to the convening of the 1999 regular session.

SECTION 7. This Act shall take effect upon its approval.

(Approved April 8, 1998.)

A Bill for an Act Making Emergency Appropriations for the University of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the constitution of the State of Hawaii.

SECTION 2. Act 328, Session Laws of Hawaii 1997, delegated budgetary responsibility to the University of Hawaii for workers' compensation costs of its employees, and appropriated a certain designated sum in general funds to the university to fund workers' compensation costs of University of Hawaii state employees for the fiscal period beginning July 1, 1997, and ending June 30, 1998. Revolving fund and special fund expenditure ceiling adjustments were not authorized for this purpose.

A critical funding emergency exists. The University lacks adequate revolving fund and special fund expenditure ceiling authorizations for the current fiscal year 1997-1998 and will be unable to meet its fiscal obligations to provide for the health and welfare of University of Hawaii employees employed under these fund sources.

The purpose of this Act is to appropriate moneys to allow the University of Hawaii to meet its fiscal obligations under chapter 386, Hawaii Revised Statutes.

SECTION 3. There is appropriated out of the University of Hawaii workers' compensation revolving fund the sum of \$100,000 or so much thereof as may be necessary for fiscal year 1997-1998, and the University of Hawaii workers' compensation special fund the sum of \$100,000 or so much thereof as may be necessary for fiscal year 1997-1998 to be expended for the following program:

UOH 900, systemwide support, workers' compensation costs of University of Hawaii state employees.

SECTION 4. The sums appropriated shall be expended by the University of Hawaii for the purposes of this Act.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 13, 1998.)

A Bill for an Act Relating to Frivolous Lobbying Charges.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 97-6, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) A person who files a frivolous charge with the commission against any person covered by this chapter shall be civilly liable to the person charged for all costs incurred in defending the charge, including but not limited to costs and attorneys' fees. In any case where the commission [decides not to issue a complaint in response to a charge,] does not issue a decision or final conclusion in which the



commission concludes that a person has violated this chapter, the commission shall, upon the written request of the person charged, make a finding as to whether or not the charge was frivolous. The person charged may initiate an action in the circuit court for recovery of fees and costs incurred in commission proceedings within one year after the commission renders a decision that the charge was frivolous. The commission's decision shall be binding upon the court for purposes of a finding pursuant to section 607-14.5.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 13, 1998.)

## ACT 18

S.B. NO. 2916

A Bill for an Act Relating to the University of Hawaii Board of Regents.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 304-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The board of regents shall have management and control of the general affairs, and exclusive jurisdiction over the internal organization and management, of the university. It may appoint a treasurer and such other officers as it deems necessary. It may authorize any officer, elected or appointed by it, to approve and sign on its behalf any voucher or other document which the board may approve and sign. It may delegate to the president or the president's designee the authority to render the final decision in contested case proceedings subject to chapter 91, as it deems appropriate. It may purchase or otherwise acquire lands, buildings, appliances, and other property for the purposes of the university and expend such sums of money as may be from time to time placed at the disposal of the university from whatever source. All lands, buildings, appliances, and other property so purchased or acquired shall be and remain the property of the university to be used in perpetuity for the benefit of the university. The board of regents, in accordance with law, shall manage the inventory, equipment, surplus property, and expenditures of the university and, subject to chapter 91, may adopt rules, further controlling and regulating the same.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 13, 1998.)

A Bill for an Act Relating to Milk.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 118, Session Laws of Hawaii 1997, is amended by amending section 6 to read as follows:

“SECTION 6. This Act shall take effect upon its approval [and be repealed on June 30, 1998; provided that sections 157-1, 157-31, 157-33, and 157-34, Hawaii Revised Statutes, are reenacted in the form in which they read on the day before the approval of this Act].”

SECTION 2. Statutory material to be repealed is bracketed.

SECTION 3. This Act shall take effect on June 29, 1998.

(Approved April 15, 1998.)

A Bill for an Act Relating to Grandparents’ Visitation Rights.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to delete the requirement that grandparents may be awarded visitation rights only if the parents of the child are divorced, residing apart, or one or both parents are deceased.

SECTION 2. Section 571-46.3, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§571-46.3]]~~ **Grandparents’ visitation rights; petition; notice; order.** A grandparent or the grandparents of a minor child may file a petition with the court for an order of reasonable visitation rights. The court may award reasonable visitation rights provided that the following criteria are met:

- (1) This State is the home state of the child at the time of the commencement of the proceeding; and
- (2) Reasonable visitation rights are in the best interests of the child; and
- (3) Either or both of the child’s parents are deceased, or the child’s parents are divorced or residing separate and apart].

No hearing for an order of reasonable visitation rights under this section shall be had unless each of the living parents and the child’s custodians shall have had due notice, actual or constructive, of the allegations of the petition and of the time and place of the hearing thereof.

An order made pursuant to this section shall be enforceable by the court, and the court may issue other orders to carry out these enforcement powers if in the best interests of the child.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 15, 1998.)

## ACT 21

H.B. NO. 611

A Bill for an Act Relating to Ocean Resources.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Every year since 1995, the governor has designated one day as “Ocean Day,” in recognition of the importance of the ocean to Hawaii. The purpose of this Act is to designate Ocean Day as a permanent day of recognition in Hawaii.

SECTION 2. Chapter 8, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§8- Ocean Day. The first Wednesday of June shall be known and designated as Ocean Day, in recognition of the very significant role the ocean plays in the lives of Hawaii’s people, as well as Hawaii’s culture, history, and traditions. This day is not and shall not be construed as a state holiday.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved April 15, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 22

H.B. NO. 2531

A Bill for an Act Relating to County Elections Requiring a Runoff.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Runoff election” means any single election required by county charters preceded by an election that failed to elect a candidate.”

SECTION 2. Section 11-173.5, Hawaii Revised Statutes, is amended to read as follows:

“§11-173.5 **Contests for cause in primary [and], special primary elections[.], and county elections held concurrently with a regularly scheduled primary or special primary election.** (a) In primary and special primary election contests, and county election contests held concurrently with a regularly scheduled primary or special primary election, the complaint shall be filed in the office of the clerk of the supreme court not later than 4:30 p.m. on the sixth day after a primary or special primary election, or county election contests held concurrently with a regularly scheduled primary or special primary election, and shall be accompanied by a deposit for costs of court as established by rules of the supreme court. The clerk shall issue to the defendants named in the complaint a summons to appear before the supreme court not later than 4:30 p.m. on the fifth day after service thereof.

(b) In primary and special primary election contests, and county election contests held concurrently with a regularly scheduled primary or special primary

election, the court shall hear the contest in a summary manner and at the hearing the court shall cause the evidence to be reduced to writing and shall not later than 4:30 p.m. on the fourth day after the return give judgment fully stating all findings of fact and of law. The judgment shall decide what candidate was nominated or elected, as the case may be, in the manner presented by the petition, and a certified copy of the judgment shall forthwith be served on the chief election officer or the county clerk, as the case may be, who shall place the name of the candidate declared to be nominated on the ballot for the forthcoming general [or], special general, or runoff election. The judgment shall be conclusive of the right of the candidate so declared to be nominated; provided that this subsection shall not operate to amend or repeal section 12-41.”

SECTION 3. Section 11-174.5, Hawaii Revised Statutes, is amended to read as follows:

**“§11-174.5 Contests for cause in general, special general, [and] special, and runoff elections.** (a) In general, special general, [or] special, or runoff elections, the complaint shall be filed in the office of the clerk of the supreme court not later than 4:30 p.m. on the twentieth day following the general, special general, [or] special, or runoff election and shall be accompanied by a deposit for costs of court as established by rules of the supreme court. The clerk shall issue to the defendants named in the complaint a summons to appear before the supreme court not later than 4:30 p.m. on the tenth day after service thereof.

(b) In cases involving general, special general, [and] special, or runoff elections the complaint shall be heard by the supreme court in which the complaint was filed as soon as it reasonably may be heard. On the return day, the court, upon its motion of otherwise, may direct summons to be issued to any person who may be interested in the result of the proceedings.

At the hearing, the court shall cause the evidence to be reduced to writing and shall give judgment, stating all findings of fact and of law. The judgment may invalidate the general, special general, [or] special, or runoff election on the grounds that a correct result cannot be ascertained because of a mistake or fraud on the part of the precinct officials; or decide that a certain candidate, or certain candidates, received a majority or plurality of votes cast and were elected. If the judgment should be that the general, special general, [or] special, or runoff election is invalid, a certified copy thereof shall be filed with the governor, and the governor shall duly call a new election to be held not later than on the sixtieth day after the judgment is filed. If the court shall decide which candidate or candidates have been elected, a copy of that judgment shall be served on the chief election officer or county clerk, who shall sign and deliver to the candidate or candidates certificates of election, and the same shall be conclusive of the right of the candidate or candidates to the offices.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 15, 1998.)

## ACT 23

H.B. NO. 2523

A Bill for an Act Relating to the General County Register.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-14, Hawaii Revised Statutes, is amended to read as follows:

**“§11-14 General county register; restrictions in use.** (a) The clerk of each county shall register all the voters in the clerk’s county in the general county register. The register shall contain the name and address of each voter unless such address is deemed confidential pursuant to section 11-14.5. Additional information required by section 11-15 may be included in the register at the discretion of the clerk. The voter’s name shall be maintained alphabetically in the register and be capable of segregation by precinct and representative district. The clerk shall keep the original or photographic copy of the affidavit of registration required by section 11-15. The general county register shall be available for election or government purposes only in accordance with section [11-14.6.] 11-97.

(b) The affidavits filed under section 11-15 and the general county register may be copied, and the clerk may release voter lists and tabulating cards or computer tapes containing data furnished in the affidavit; provided that information furnished in the affidavits, register, voter lists, cards, or tapes, shall be copied or released for election or government purposes only in accordance with section [11-14.6.] 11-97.

(c) Voter registration information which is collected and maintained by the clerk of each county may be transmitted to a central file for the purpose of correlating registration data to prevent or detect duplicate voter registrations and for the compilation of election reports.

(d) The clerk of each county shall maintain records by computer tape or otherwise of office of Hawaiian affairs registered voters to facilitate their identification as a separate category of voters.”

SECTION 2. Section 11-15, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The applicant shall then affix the applicant’s signature to the affidavit. In the case where an applicant is unable to write for the reason of illiteracy, blindness, or other physical disability the applicant’s mark shall be witnessed by another person who shall sign the affidavit in the space provided. A voter having once been registered shall not be required to register again for any succeeding election, except as provided in this chapter. Affidavits approved by the clerk shall thereupon be numbered appropriately, filed by the clerk and kept available for election or government purposes in accordance with procedures established by section [11-14.6.] 11-97.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 15, 1998.)

A Bill for an Act Relating to Trusts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that current law allows trustees to distribute assets through their general powers under chapter 554A, Hawaii Revised Statutes, and pursuant to any applicable trust agreement. The legislature further finds that such trust agreements allow trustees to distribute trust assets pro rata or non-pro rata in consideration of the wishes of the settlor of the trust as well as the needs and desires of the beneficiaries. However, chapter 554A does not specifically provide such authority to the trustees under their general powers, and thus there may be a conflict between the trustees' general powers and the applicable trust agreements.

Therefore, it is the purpose of this Act to amend chapter 554A to conform the Uniform Trustees Powers Act with existing practices by trustees acting in the best interests of their beneficiaries.

SECTION 2. Section 554A-3, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) A trustee has the power, subject to subsections (a) and (b):

- (1) To collect, hold, and retain trust assets received from a trustor until, in the judgment of the trustee, disposition of the assets should be made;
- (2) To receive additions to the assets of the trust;
- (3) To continue or participate in the operation of any business or other enterprise, and to effect incorporation, dissolution, or other change in the form of the organization of the business or enterprise;
- (4) To invest and reinvest trust assets in accordance with the provisions of the trust or as provided by law;
- (5) To deposit trust funds in a bank;
- (6) To acquire or dispose of an asset, for cash or on credit, at public or private sale; and to manage, develop, improve, exchange, partition, change the character of, or abandon a trust asset or any interest therein; and to encumber, mortgage, or pledge a trust asset for a term within or extending beyond the term of the trust, in connection with the exercise of any power vested in the trustee;
- (7) To make ordinary or extraordinary repairs or alterations in buildings or other structures, to demolish any improvements, to raze existing or erect new party walls or buildings;
- (8) To subdivide, develop, or dedicate land to public use; or to make or obtain the vacation of plats and adjust boundaries; or to adjust differences in valuation on exchange or partition by giving or receiving consideration; or to dedicate easements to public use without consideration;
- (9) To enter for any purpose into a lease as lessor or lessee with or without option to purchase or renew for a term within or extending beyond the term of the trust;
- (10) To enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;
- (11) To grant an option involving disposition of a trust asset, or to take an option for the acquisition of any asset;
- (12) To vote a security, in person or by general or limited proxy;

- (13) To pay calls, assessments, and any other sums chargeable or accruing against or on account of securities;
- (14) To sell or exercise stock subscription or conversion rights; to consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;
- (15) To hold a security in the name of a nominee or in other form without disclosure of the trust, so that title to the security may pass by delivery, but the trustee is liable for any act of the nominee in connection with the stock so held;
- (16) To insure the assets of the trust against damage or loss, and the trustee against liability with respect to third persons;
- (17) To borrow money to be repaid from trust assets or otherwise; to advance money for the protection of the trust, and for all expenses, losses, and liabilities sustained in the administration of the trust or because of the holding or ownership of any trust assets, for which advances with any interest the trustee has a lien on the trust assets as against the beneficiary;
- (18) To pay or contest any claim; to settle a claim by or against the trust by compromise, arbitration, or otherwise; and to release, in whole or in part, any claim belonging to the trust to the extent that the claim is uncollectible;
- (19) To pay taxes, assessments, compensation of the trustee, and other expenses incurred in the collection, care, administration, and protection of the trust;
- (20) To allocate items of income or expense to either trust income or principal, as provided by chapter 557, the Revised Uniform Principal and Income Act, including creation of reserves out of income for depreciation, obsolescence, or amortization, or for depletion in mineral or timber properties;
- (21) To pay any sum distributable to a beneficiary under legal disability, without liability to the trustee, by paying the sum to the beneficiary or by paying the sum for the use of the beneficiary either to a legal representative appointed by the court, or if none, to a relative;
- (22) To effect distribution of money and property [and money] (that may be made in kind on a pro rata or non-pro rata basis), in divided or undivided interests, and to adjust resulting differences in valuation;
- (23) To employ persons, including attorneys, auditors, investment advisors, or agents, even if they are associated with the trustee, to advise or assist the trustee in performance of the trustee's administrative duties; to act without independent investigation upon their recommendations; and instead of acting personally, to employ one or more agents to perform any act of administration, whether or not discretionary;
- (24) To prosecute or defend actions, claims, or proceedings for the protection of trust assets and of the trustee in the performance of trustee duties; and
- (25) To execute and deliver all instruments which will accomplish or facilitate the exercise of the powers vested in the trustee."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

**ACT 25**

SECTION 4. This Act shall take effect upon its approval.

(Approved April 23, 1998.)

**ACT 25**

S.B. NO. 2913

A Bill for an Act Relating to Highway Safety.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 291C-202, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every moped offered for sale for use upon, sold for use upon, or used upon the roadways and highways shall be equipped with:

- (1) A motor having a maximum power output capability, measured at the motor output shaft, in accordance with the Society of Automotive Engineers standards, of [one and one-half horsepower (one thousand, one hundred nineteen watts)] two horsepower (one thousand four hundred ninety-two watts) or less and, if it is a combustion engine, a maximum piston or rotor displacement of 3.05 cubic inches (fifty cubic centimeters) and which will propel the moped, unassisted, on a level surface at a maximum speed no greater than [thirty-five] thirty miles per hour [(fifty-eight kilometers per hour)]; provided that those mopeds, including those modified pursuant to section 291C-206, registered prior to the effective date of this Act shall continue to be subject to the prior thirty-five miles per hour maximum speed limitation; and
- (2) A direct or automatic power drive system which requires no clutch or gear shift operation by the moped driver after the drive system is engaged with the power unit.”

SECTION 2. Section 291C-206, Hawaii Revised Statutes, is amended to read as follows:

“**§291C-206 Modifying moped motor; violation.** (a) A motor used to power a moped shall not be modified in any manner except as authorized by the motor manufacturer and any such modification shall not increase the power capacity of the motor above [one and one-half] two horsepower[.] (one thousand four hundred ninety-two watts).

(b) Any person who violates this section shall be fined not more than \$500.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 23, 1998.)



## ACT 26

H.B. NO. 3317

A Bill for an Act Relating to Public Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that it is in the public interest to enter a public auction sale, in fee simple, of the Mabel Smyth Memorial Auditorium Building and property situate at Auwaiolimu and Puowaina, Honolulu, Oahu, Hawaii.

The land is approximately 28,213 square feet in size and is identified as Tax Map Key (TMK) No. (1)2-1-35:01. It is in the public interest for the State to conduct a public auction sale, in fee simple, of the Mabel Smyth Memorial Auditorium Building and property for office and other business uses.

The proposed public auction sale is a result of a request submitted by The Queen Emma Foundation to purchase the Mabel Smyth property for The Queen's Medical Center's business use. The Foundation stated that the largest auditorium facility on the Medical Center's campus comprises just seventy-five seats which is inadequate for the Medical Center's business. Each month, the Medical Center offers a variety of health education classes to the community, for example, workshops on diabetes, asthma, high blood pressure, first aid, anger management, stress, and parenting. Arrangements must be made for local, national and international experts to lecture and make presentations to the public as well as the more than one thousand members of the Medical Center's staff. The Mabel Smyth Memorial Auditorium, with its three hundred thirty-eight seat capacity, adjacent classrooms, and office space would solve a number of the Medical Center's education, training, meeting, and office space needs.

After a review of the State's space requirements and all available data, on December 12, 1997, the board of land and natural resources approved a public auction sale of the Mabel Smyth Memorial Auditorium Building and property. The upset price is \$5,000,000.

SECTION 2. Notwithstanding the provisions of section 171-41(b), Hawaii Revised Statutes, the legislature approves the public auction sale, in fee simple, of the Mabel Smyth Memorial Auditorium Building and property situate at Auwaiolimu and Puowaina, Honolulu, Oahu, Hawaii, more particularly identified as TMK No. (1)2-1-35:01.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 23, 1998.)

## ACT 27

H.B. NO. 3020

A Bill for an Act Relating to the Hawaiian Homes Commission Act of 1920, As Amended.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 213 of the Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (d) to read as follows:

“(d) There are established in the treasury of the State [five special] four trust funds, to be known respectively as the Hawaiian home operating fund, [the

Hawaiian home administration account,] the Hawaiian home receipts fund, the Hawaiian home trust fund, and the native Hawaiian rehabilitation fund and one special fund to be known as the Hawaiian homes administration account.”

SECTION 2. Section 213 of the Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (i) to read as follows:

“(i) Native Hawaiian rehabilitation fund. Pursuant to Article XII, Section 1, of the State Constitution, thirty per cent of the state receipts, derived from lands previously cultivated as sugarcane lands under any other provision of law and from water licenses, shall be deposited into this fund. The department shall use this money solely for the rehabilitation of native Hawaiians which shall include[,] but not be limited to[,] the educational, economic, political, social, and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated.

The native Hawaiian rehabilitation fund shall be subject to the following conditions:

- (1) All moneys received by the fund shall be deposited in the state treasury and kept separate and apart from all other moneys in the state treasury;
- (2) The director of finance shall serve as a custodian of the fund. All payments from the fund shall be made by the director of finance only upon vouchers approved by the commission;
- (3) The commission shall develop guidelines for the investment of moneys in the fund;
- (4) The commission may invest and reinvest in investments authorized in chapter 88. The commission may hold, purchase, sell, assign, transfer, or dispose of any securities and investments in which any of the moneys shall have been invested, as well as the proceeds of such investments; and
- (5) The commission may pay out of any of the moneys held for investment, a reasonable amount to any person for supplying investment advisory or consultive services; and to meet such other costs incident to the prudent investment of moneys as the commission may approve.

Any payment of principal, interest, or other earnings arising out of the loan or investment of money from this fund shall be credited to and deposited into this fund.

Sections 214, 215, 216, and 217 shall not apply to administration of this fund. The department is authorized to adopt rules under chapter 91 necessary to administer and carry out the purposes of this fund.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 1998.

(Approved April 23, 1998.)

## ACT 28

S.B. NO. 3215

A Bill for an Act Relating to Animal Importation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 150A-6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The board shall maintain:

- (1) A list of conditionally approved animals and microorganisms that require a permit for import into the State;
- (2) A list of restricted animals and microorganisms that require a permit for both import into the State and possession; and
- (3) A list of animals and microorganisms that are prohibited entry into the State[.];

provided that the board shall adopt rules, pursuant to chapter 91, to establish an ad hoc panel of no fewer than three members with applicable expertise in vertebrate biology to identify whether an animal is a prohibited hybrid animal when the department suspects that the lineage of the animal is not as stated by the owner or on other official documents.

Animals and microorganisms on the lists of conditionally approved and restricted animals and microorganisms shall be imported only by permit. Any animal or microorganism that is not on the lists of conditionally approved, restricted, or prohibited animals and microorganisms shall be prohibited until the board’s review and determination for placement on one of these lists; provided that the department may issue a special permit on a case by case basis for the importation and possession of an animal or a microorganism that is not on the lists of prohibited, restricted, or conditionally approved animals or microorganisms, for the purpose of remediating medical emergencies or agricultural or ecological disasters, or conducting medical or scientific research in a manner that the animal or microorganism will not be detrimental to agriculture, the environment, or humans if the importer of the animal or microorganism can meet permit requirements consistent with Centers for Disease Control and National Institute of Health guidelines or other guidelines as determined by the board; and provided further that the department may issue a short-term special permit on a case by case basis not to exceed ninety days for the importation and possession of an animal that is not on the list of prohibited, restricted, or conditionally-approved animals for the purpose of filming, performance, or exhibition if the importer of the animal can meet permit and bonding requirements as determined by the board. All permits referenced in this section shall be issued pursuant to rules and any violation of the conditions listed on the permits shall be a violation of this section.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 23, 1998.)

A Bill for an Act Relating to Riding Bicycles on Roadways.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 291C-145, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every person operating a bicycle upon a roadway at a speed less than the normal speed of traffic moving in the same direction at such time shall ride as near to the right-hand curb or [edge] on the shoulder of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction; except under any of the following situations:

- (1) When preparing for a left turn at an intersection or into a private road or driveway, except where prohibited by official traffic control devices;
- (2) When reasonably necessary to avoid conditions (including, but not limited to, fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards, or substandard width lanes) that make it unsafe to continue along the right-hand curb or [edge.] on the shoulder of the roadway. For purposes of this section, a “substandard width lane” is a lane that is too narrow for a bicycle and a vehicle to travel safely side by side within the lane; or
- (3) When a roadway is designated and signposted to carry traffic in one direction only and has two or more marked traffic lanes, a person operating a bicycle may ride as near to the left-hand curb or [edge] on the shoulder of such roadway as practicable.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 23, 1998.)

A Bill for an Act Relating to the University of Hawaii-Hilo.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 304-76, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§304-76] Tropical agriculture]~~ Agriculture, forestry, and natural resource management program at Hilo. The board of regents of the University of Hawaii shall establish a program of [tropical] agriculture, forestry, and natural resource management at the University of Hawaii-Hilo and offer a baccalaureate program commencing in September 1975.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 1998.

(Approved April 29, 1998.)

## ACT 31

H.B. NO. 2441

A Bill for an Act Relating to Elections.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-204, Hawaii Revised Statutes, is amended by amending subsection (l) to read as follows:

“(l) No person or any other entity shall make contributions to a political party in an aggregate amount greater than \$50,000 in any two-year election [year.] period.”

SECTION 2. Section 11-207, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Expenditures made by any person or political party for the benefit of a candidate in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a candidate’s political committee, or their agents, shall be considered to be a contribution to such candidate.

The financing by any person or political party of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written or other campaign materials prepared by the candidate, the candidate’s political committee or committees, or agents shall be considered to be a contribution to such candidate.

This subsection shall not apply to candidates for governor or lieutenant governor supporting a co-candidate in the general election.”

SECTION 3. Section 11-213, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Deficit. In the event of a deficit the candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee shall, every six months until the deficit is eliminated, file supplemental reports covering all items prescribed in subsection (a) or subsection (b) in the case of noncandidate committees. The first report shall be due no later than 4:30 p.m. on the [thirty-first] thirtieth day after the last day of the election year.”

SECTION 4. Section 11-214, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) This section shall not apply to:

- (1) Elected officials;
- (2) Candidates who failed to be nominated or elected yet who become a candidate for nomination or election to office within four years thereafter; [or]
- (3) Elected officials who resign their office before the end of their term yet who file to become a candidate for reelection within four years after the end of the term from which they resigned[.]; or
- (4) Elected officials who do not seek reelection yet who file to become a candidate for election within four years after the end of the term from which they did not seek reelection.”

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SECTION 5. Section 11-218, Hawaii Revised Statutes, is amended to read as follows:

“**§11-218 Candidate funding; amounts available.** (a) The maximum amount of public funds available to a candidate for the office of governor, lieutenant governor, or mayor in any election year shall not exceed one-fifth or twenty per cent of the total expenditure limit established for each office above pursuant to section 11-209.

(b) For the office of state senator, state representative, county council member, and prosecuting attorney, the maximum amount of public funds available to a candidate in any election year shall be thirty per cent of the total expenditure limit established for each office listed in this subsection pursuant to section 11-209[; provided that the candidate received at least ten per cent of the votes cast in the respective election for the office which the candidate is seeking].

(c) For the board of education and all other offices, the maximum amount of public funds available to a candidate shall not exceed \$100 in any election year.

(d) The total amount of public funds for a primary, special primary, or general election to which a candidate is entitled to receive under section 11-221 shall not exceed fifty per cent of the maximum amount of public funds available for the candidate's respective office. Each candidate who qualified for the maximum amount of public funding in any primary or special primary election and who is a candidate for a subsequent general election shall upon application with the commission be entitled to receive up to fifty per cent of the balance of public funds available to such candidate.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

## ACT 32

H.B. NO. 2519

A Bill for an Act Relating to List of Persons Examining Records.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 84-31.5, Hawaii Revised Statutes, is repealed.

SECTION 2. Statutory material to be repealed is bracketed.<sup>1</sup>

SECTION 3. This Act shall take effect upon approval.

(Approved April 29, 1998.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 33

H.B. NO. 2522

A Bill for an Act Relating to Parties.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-62, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The petition shall be subject to hearing under chapter 91, if any objections are raised by the chief election officer or any other political party. All objections shall be made not later than 4:30 p.m. on the [tenth] twentieth business day after the petition has been filed. The chief election officer may extend the objection period up to an additional ten business days, if the group of persons desiring to qualify as a political party is provided with notice of extension and the reasons therefore. If no objections are raised by 4:30 p.m. on the [tenth] twentieth business day, or the extension thereof, the petition shall be approved. If an objection is raised, a decision shall be rendered not later than 4:30 p.m. on the thirtieth day after filing of the [petition] objection or not later than 4:30 p.m. on the one hundredth day prior to the primary, whichever shall first occur.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

## ACT 34

H.B. NO. 2528

A Bill for an Act Relating to Employment Security.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 383-7, Hawaii Revised Statutes, is amended to read as follows:

“**§383-7 Excluded service.** “Employment” does not include the following service:

- (1) Agricultural labor as defined in section 383-9 if it is performed by an individual who is employed by an employing unit:
  - (A) Which, during each calendar quarter in both the current and the preceding calendar years, paid less than \$20,000 in cash remuneration to individuals employed in agricultural labor; and
  - (B) Which had, in each of the current and the preceding calendar years:
    - (i) No more than nineteen calendar weeks, whether consecutive or not, in which agricultural labor was performed by its employees; or
    - (ii) No more than nine individuals in its employ performing agricultural labor in any one calendar week, whether or not the same individuals performed the labor in each week;

- (2) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority as set forth in section 3306(c)(2) of the Internal Revenue Code of 1986, as amended;
- (3) Service not in the course of the employing unit's trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for the service is \$50 or more and the service is performed by an individual who is regularly employed by the employing unit to perform the service. For the purposes of this paragraph, an individual shall be deemed to be regularly employed to perform service not in the course of an employing unit's trade or business during a calendar quarter only if:
  - (A) On each of some twenty-four days during the quarter the individual performs the service for some portion of the day; or
  - (B) The individual was regularly employed as determined under subparagraph (A) by the employing unit in the performance of the service during the preceding calendar quarter;
- (4) (A) Service performed on or in connection with a vessel not an American vessel, if the individual performing the service is employed on and in connection with the vessel when outside the United States;
- (B) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including service performed as an ordinary incident thereto, except:
  - (i) The service performed in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States);
  - (ii) The service performed in connection with a vessel of ten net tons or less (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States) by an individual who is employed by an employing unit which had in its employ one or more individuals performing the service for some portion of a day in each of twenty calendar weeks all occurring, whether consecutive or not, in either the current or the preceding calendar year; and
  - (iii) Service performed in connection with the catching or taking of salmon or halibut for commercial purposes;
- (5) Service performed by an individual in the employ of the individual's son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of the child's father or mother;
- (6) Service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by this chapter, except that to the extent that the Congress of the United States permits states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this chapter shall apply to those instrumentalities, and to services performed for those instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and



services; provided that if this State is not certified for any year by the Secretary of Labor under section 3304(c) of the federal Internal Revenue Code, the payments required of those instrumentalities with respect to that year shall be refunded by the department of labor and industrial relations from the fund in the same manner and within the same period as is provided in section 383-76 with respect to contributions erroneously collected;

- (7) Service performed in the employ of any other state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more states or political subdivisions; and any service performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to the service, exempt from the tax imposed by section 3301 of the Internal Revenue Code of 1986, as amended;
- (8) Service with respect to which unemployment compensation is payable under an unemployment system established by an act of Congress;
- (9) (A) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the federal Internal Revenue Code (other than an organization described in section 401(a) or under section 521 of the Code), if:
  - (i) The remuneration for the service is less than \$50; or
  - (ii) The service is performed by a fully ordained, commissioned, or licensed minister of a church in the exercise of the minister's ministry or by a member of a religious order in the exercise of duties required by the order;
- (B) Service performed in the employ of a school, college, or university, if the service is performed by a student who is enrolled and is regularly attending classes at the school, college, or university; or
- (C) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers;
- (10) Service performed in the employ of a foreign government (including service as a consular or other officer or employee of a nondiplomatic representative);
- (11) Service performed in the employ of an instrumentality wholly owned by a foreign government:
  - (A) If the service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof; and
  - (B) If the United States Secretary of State has certified or certifies to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar

- service performed in the foreign country by employees of the United States government and of instrumentalities thereof;
- (12) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school chartered or approved pursuant to state law;
  - (13) Service performed by an individual for an employing unit as an insurance agent or as an insurance solicitor, if all service performed by the individual for the employing unit is performed for remuneration solely by way of commission;
  - (14) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;
  - (15) Service covered by an arrangement between the department and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by the employing unit's duly approved election, are deemed to be performed entirely within the agency's state;
  - (16) Service performed by an individual who, pursuant to the Federal Economic Opportunity Act of 1964, is not subject to the federal laws relating to unemployment compensation;
  - (17) Service performed by an individual for an employing unit as a real estate salesperson, if all service performed by the individual for the employing unit is performed for remuneration solely by way of commission;
  - (18) Service performed by a registered sales representative for a registered travel agency, when the service performed by the individual for the travel agent is performed for remuneration by way of commission;
  - (19) Service performed by a vacuum cleaner salesperson for an employing unit, if all services performed by the individual for the employing unit are performed for remuneration solely by way of commission;
  - (20) Service performed for a family-owned private corporation organized for profit that employs only members of the family who each own at least fifty per cent of the shares issued by the corporation, provided that:
    - (A) The private corporation elects to be excluded from coverage under this chapter;
    - (B) The election for exclusion shall apply to all shareholders and under the same circumstances;
    - (C) No more than two members of a family may be eligible per entity for exclusion under this paragraph;
    - (D) The exclusion shall be irrevocable for five years;
    - (E) The family-owned private corporation presents to the department proof that it has paid federal unemployment insurance taxes as required by federal law; and
    - (F) The election to be excluded from coverage shall be effective the first day of the calendar quarter in which the application and all substantiating documents requested by the department are filed with the department; [and]

- (21) Service performed by a direct seller as defined in section 3508 of the Internal Revenue Code of 1986[.]; and
- (22) Service performed by an election official or election worker as defined in section 3309(b)(3)(F) of the Internal Revenue Code of 1986, as amended.

None of the foregoing exclusions (1) to [(21)] (22) shall apply to any service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the federal Unemployment Tax Act is required to be covered under this chapter.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

## ACT 35

H.B. NO. 2626

A Bill for an Act Relating to Occupational Therapy.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 457G-2, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§457G-2]]~~ **Qualifications of occupational therapists and occupational therapy assistants.** Occupational therapists and occupational therapy assistants shall have completed the educational requirements and supervised field work experience required for certification by the [American Occupational Therapy Association,] National Board for Certification in Occupational Therapy, and shall have passed a national certification examination administered by that [association.] board.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

## ACT 36

H.B. NO. 2708

A Bill for an Act Relating to Courts and Judicial Proceedings.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the form of warrants, mittimus, indictments, and executions has been established by the usage and practice of the issuing courts and that the form of such writs rests in the discretion of the supreme

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court. Accordingly, the purpose of this Act is to expressly remove all forms set out in chapters 651 and 805, Hawaii Revised Statutes.

SECTION 2. Section 651-32, Hawaii Revised Statutes, is amended to read as follows:

**“§651-32 Execution, district court; form.** Every district judge [shall]<sup>1</sup> at the request of the party recovering any civil judgment in [his] the judge’s court, unless the judgment is duly appealed from, shall issue [his] the judge’s execution against the property of the party recovered against, which execution may be in the [following] form established by the usage and practice of the issuing court and may be directed to any police officer of the judicial circuit in which the district court is situated; provided the defendant or any of the defendants is a resident of the circuit[:

To any police officer, \_\_\_\_\_ judicial circuit, island of \_\_\_\_\_ State of Hawaii:

You are commanded to levy upon the personal property of \_\_\_\_\_ if any within your circuit, and if sufficient cannot be found, then upon his real property within the circuit, and giving thirty days previous notice as required by law, to sell the same, or so much thereof as may be found necessary, at public sale to the highest bidder, in order to satisfy a judgment rendered by me against him in favor of \_\_\_\_\_, on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, for \_\_\_\_\_ dollars, the costs of court inclusive, collecting also the legal interest thereon, from the date thereof, and your costs and expenses of levy, advertisement, and sale. Make due return to me of this writ, with your proceedings thereon, and the money by you so collected, on or before the expiration of \_\_\_\_ days; and hereof fail not at your peril.

Given under my hand this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_  
District Judge].”

SECTION 3. Section 805-1, Hawaii Revised Statutes, is amended to read as follows:

**“§805-1 Complaint; form of warrant.** When a complaint is made to any prosecuting officer of the commission of any offense, the prosecuting officer shall examine the complainant, shall reduce the substance of the complaint to writing, and shall cause the same to be subscribed by the complainant under oath, which the prosecuting officer is hereby authorized to administer. If the original complaint results from the issuance of a traffic summons or a citation in lieu of an arrest pursuant to section 803-6, by a police officer, the oath may be administered by any police officer whose name has been submitted to the prosecuting officer and who has been designated by the chief of police to administer the oath. Upon presentation of the written complaint to the judge within whose circuit the offense is alleged to have been committed, the judge shall issue a warrant, reciting the complaint and requiring the sheriff, or other officer to whom it is directed (except as provided in section 805-3), forthwith to arrest the accused and bring the accused before the judge to be dealt with according to law; and in the same warrant may require the officer to summon such witnesses as are named therein to appear and give evidence at the trial. The warrant may be in the [following] form[:

To any police officer of the \_\_\_\_\_ judicial circuit, island of \_\_\_\_\_, State of Hawaii:

You are hereby commanded, on the information of \_\_\_\_\_ verified by oath, forthwith to arrest and take the body of \_\_\_\_\_ accused of \_\_\_\_\_ if the accused can be found, and forthwith have the accused’s body before me at the district courtroom of \_\_\_\_\_ at any time between the hours of \_\_\_\_ A.M. and \_\_\_\_

P.M. of the \_\_\_\_ day of \_\_\_\_\_ A.D. 19\_\_ (to answer to the said accusations, or to show cause why the accused should not be committed for trial at the circuit court of the \_\_\_\_\_ Judicial Circuit). And you are also commanded, having arrested the said \_\_\_\_\_ to summon as witnesses of accusation \_\_\_\_\_ if they can be found, and to make due return of your proceedings upon this writ.

Given under my hand this \_\_\_\_ day of \_\_\_\_\_, A.D. 19\_\_

\_\_\_\_\_  
Judge

District Court of the \_\_\_\_\_ Circuit.]

established by the usage and practice of the issuing court.”

SECTION 4. Section 805-7, Hawaii Revised Statutes, is amended to read as follows:

**“§805-7 Commitment; form of mittimus.** In all cases of arrest for offenses that must be tried in the first instance before a jury, or that can be tried only on indictment by a grand jury, the judge in whose jurisdiction or on whose warrant the accused was arrested [shall], upon the appearance of the accused, shall proceed to consider whether there is probable cause to believe that the accused is guilty of the offense with which the accused is charged. The judge shall reduce to writing the substance of the evidence adduced, with the names of the witnesses. If in the judge’s opinion the testimony does not warrant commitment for trial, the judge shall release the prisoner, noting that fact upon the judge’s docket. But if in the judge’s opinion there is probable cause to believe that the accused is guilty of the offense with which the accused is charged, the judge shall make out and deliver to a police officer a mittimus which may be in the [following] form[:

To \_\_\_\_\_, or any other police officer of the \_\_\_\_\_ judicial circuit, island of \_\_\_\_\_, State of Hawaii: It appearing to my satisfaction that there is probable cause to believe that \_\_\_\_\_, who was arrested for \_\_\_\_\_ on the information of \_\_\_\_\_ (or as the case may be) committed the offense charged: You are commanded to deliver the accused, the said \_\_\_\_\_ to the chief of police of the island of \_\_\_\_\_, or the chief of police’s authorized subordinate, who is hereby authorized to commit the accused to the jail of the said island for trial at the circuit court of the \_\_\_\_\_ judicial circuit (or the district court of the \_\_\_\_\_ circuit), and have you then there this writ with full return of your proceedings thereon.

Given under my hand this \_\_\_\_ day of \_\_\_\_\_, A.D. 19\_\_

\_\_\_\_\_  
Judge

District Court of the \_\_\_\_\_ Circuit.]

established by the usage and practice of the issuing court.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 1998.

(Approved April 29, 1998.)

**Note**

1. Prior to amendment “,” appeared here.

A Bill for an Act Relating to Nonconsensual Common Law Liens.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 507D-2, Hawaii Revised Statutes, is amended by amending the definition of “state or local officer or employee” to read as follows: ““State or [local] county officer or employee” means [an]:

- (1) A court-appointed commissioner;
- (2) An appointed or elected officer [or employee];
- (3) Employee of the judiciary; or
- (4) Employee of<sup>l</sup> a state or county department, agency, board, authority, or commission.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

**Note**

1. “Of” should not be underscored.

A Bill for an Act Relating to the Business Action Center.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that there is a need to update the enabling laws for the business action center by adding additional duties and activities, eliminating obsolete functions, and correcting the name of the center and the department. This Act further acknowledges that the advent of technological change and growing business preferences for electronic services and credit card payments necessitate program modernization.

SECTION 2. Chapter 201D, Hawaii Revised Statutes, is amended to read as follows:

**“[[CHAPTER 201D]]**  
**BUSINESS [PERMITS SERVICE] ACTION CENTER**

**§201D-1 Definitions.** For purposes of this chapter, unless the context clearly requires otherwise:

“Applicant” means any person acting on the person’s own behalf or who is authorized to act on behalf of any other person for the purpose of securing required permits to engage in business [or commercial] activities in the State.

“Center” means the business [permits service] action center established in section 201D-2.

“Department” means the department of business, economic development, and tourism.

“Director” means the director of business, economic development, and tourism.

“Permit” means any license, certificate, registration, or any other form of authorization required by a federal, state, or county department or agency to engage in any business [or commercial] activity, excluding vocational and professional occupational licenses, certificates, or registration and environmental permits.

“Person” means any individual, proprietorship, partnership, association, cooperative, corporation, nonprofit organization, and any other organization required to obtain one or more permits for the conduct of its business [or commercial] activities.

“State agency” means any department, board, bureau, commission, division, office, council, or agency of the State, or a public benefit corporation or public authority having at least one member appointed by the governor.

**[[§201D-2]] Business [permits service] action center established; staff.**

(a) There is established within the department a business [permits service] action center which shall provide information and services to coordinate, simplify, and expedite permit application processing for persons engaged in or intending to engage in business [or commercial] activities in the State. The center shall assist in the development of neighbor island operations that deliver similar services. The center shall also serve as an information clearinghouse which makes available to any person general information as to state and federal laws and rules and county ordinances and financial assistance programs related to business [or commercial] activities.

(b) The center shall be headed by a supervisor who shall be appointed by the director without regard to chapters 76 and 77 and shall serve at the director’s pleasure. The director, without regard to chapters 76 and 77, may employ such other personnel as are required to carry out the functions of the center under this chapter.

**[[§201D-3]] General functions; powers and duties.** [(a)] The center shall have the following functions, powers, and duties:

- (1) [To accept] Accept permit and license applications and associated fees on behalf of participating agencies in accordance with agreements reached with these agencies;
- (2) Provide comprehensive information on permits and licenses required for business [or commercial] activities in the State;
- (3) Facilitate contacts between the applicant and state agencies with permit and license functions;
- (4) Research, compile, and maintain a file of state and federal laws and rules and county ordinances applicable to the various business [or commercial] activities for which permits and licenses are required[,] including but not limited to[,] laws relating to employer requirements in such areas as state taxes, workers’ compensation, and unemployment insurance;
- (5) Research, compile, and maintain a file of various financial assistance programs available for business [and commercial] activities in the State;
- (6) Encourage and facilitate the cooperation and participation of federal and county government agencies [on] in permit and license coordination;
- (7) Promote and publicize the center’s services to the public, and provide information on its services for inclusion in any public informational material for permits and licenses provided by a state agency;
- (8) Make recommendations to state agencies for eliminating, consolidating, simplifying, expediting, or otherwise improving permit and license procedures affecting business [or commercial] activities; and
- (9) Adopt rules, procedures, instructions, and forms as are necessary to carry out the functions, powers, and duties of the center[.]; and

- (10) Accept credit card payments and facsimile or digitized signatures for business permit, license, or registration filing fees, as authorized by the issuing agency.

(b) The center shall provide a toll-free telephone business information service within the State and direct telephone lines to those agencies that have a direct relationship to permit functions.]

**[[§201D-4]] Cooperation from state agencies.** The director may request and shall be entitled to receive from any state agency, such assistance, services, facilities, and data the director deems necessary to carry out the duties of the center. Each state agency with permit or license issuance functions covered under this chapter, shall cooperate with the center by designating a staff person to coordinate the agency's efforts in providing information to the center on its permit or license process, and to the extent possible, by providing a prompt response to requests for expediting [the] permit [application] or license applications or for information. In addition, the director shall be entitled to obtain personnel on a loaned basis from those agencies that issue permits or licenses to businesses including[,] but not limited to[,] the department of commerce and consumer affairs, the department of taxation, and the department of labor and industrial relations. The director may assign such loaned personnel to the center.

**[[§201D-5]] Comprehensive permit and license information file.** Each state agency that is required to review, approve, or grant permits or licenses for business [or commercial] activities shall report to the center on a form prescribed by the center, each and every type of review, approval, license, and permit administered by [the state] that agency. Application forms, applicable agency rules, and the estimated time period necessary for [permit] application consideration based on experience and statutory or administrative rule requirements shall accompany each state agency report. Subsequent to the filing of the report, the state agency shall submit reports to the center on any new [permit] requirement or modifications to existing [permit] requirements together with applicable forms, rules, and other information required to be filed in the initial report. Upon receipt of those reports, the center shall establish and maintain a comprehensive information file which provides ready access to the most current information as provided by the state agencies.

**[[§201D-6]] Immunity from liability.** The opinions offered and the services rendered by the center under this chapter shall be considered facilitative in nature, and the center shall not be liable for any consequences resulting from an applicant's failure to obtain a required permit[,] or license, and any information provided by the center or any omission of information by the center shall not relieve any applicant from, or constitute a waiver of, the obligation to secure a required permit[,] or license.

**[[§201D-7]] Compilation of statistical data; annual report.** The center shall obtain and keep, on an annual basis, appropriate statistical data regarding the number of permits, licenses, and registrations issued by state agencies, the amount of time involved in [the] processing [of permits, the cost of processing permits,] the permits, licenses, and registrations, the types of activities for which permits and licenses have been issued, a geographic distribution of the permits and licenses issued, and other pertinent data the director deems necessary for analysis for future planning purposes. The department shall submit an annual report to the governor and the legislature which shall include a description of the operations of the center,



summaries and analyses of statistical data compiled, and recommendations for any administrative or statutory changes required to further the purposes of this chapter.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

## ACT 39

H.B. NO. 2810

A Bill for an Act Relating to the Code of Financial Institutions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 412:3-600, Hawaii Revised Statutes, is amended to read as follows:

“**§412:3-600 Applicability of this part.** This part applies to:

- (1) The conversion, merger, consolidation, acquisition of [the] assets or assumption of [the] liabilities[,] or deposits, acquisition of control, voluntary cessation of business, or voluntary dissolution [of] involving a Hawaii financial institution;
- (2) The merger, consolidation, or acquisition of control of a financial institution holding company which controls:
  - (A) A Hawaii financial institution; and
  - (B) To the extent permitted by federal law, a federal financial institution whose operations are principally conducted in this State; [and]

and

- (3) All persons who seek to merge or consolidate with, acquire the assets or assume the liabilities of, or acquire control of:
  - (A) A Hawaii financial institution;
  - (B) A financial institution holding company which controls a Hawaii financial institution; and
  - (C) To the extent permitted by federal law, a financial institution holding company which controls a federal financial institution whose operations are principally conducted in this State.”

SECTION 2. Section 412:3-601, Hawaii Revised Statutes, is amended to read as follows:

“**§412:3-601 No conversions, mergers, consolidations, acquisitions, assumptions, voluntary cessations of business, or voluntary dissolutions except pursuant to this part.** Except as modified by the commissioner’s powers under parts III, IV, and V of article 2, no Hawaii financial institution or financial institution holding company may acquire all or substantially all of the assets or assume any of the liabilities of another company, undergo a conversion, merger, or consolidation, sell all or substantially all of its assets, be subject to any assumption of any of its liabilities or to an acquisition of control, cease business, or dissolve except in accordance with this part.”

SECTION 3. Section 412:3-609, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) One or more financial institutions chartered or licensed under the laws of or whose operations are conducted principally in any state other than [Hawaii,] this State, in any possession or territory of the United States, or in any foreign country and one or more Hawaii depository financial institutions or trust companies may be merged or consolidated, but only where the depository financial institution or trust company resulting from any merger or consolidation pursuant to this subsection is chartered or licensed under the laws of and conducts its operations principally in this State [or], is a federal financial institution [which] that conducts its operations principally in this State[.], or is an out-of-state bank authorized to establish interstate branches in this State pursuant to section 412:12-104. A nondepository financial services loan company licensed pursuant to article 9 may be merged or consolidated with another corporation, but only where the nondepository financial institution resulting from any merger or consolidation is licensed under the laws of this State. The financial institution chartered or licensed under the laws of any state other than [Hawaii,] this State, any possession or territory of the United States, or any foreign country shall comply with all requirements, conditions, and limitations imposed by the law of the jurisdiction under which the financial institution is chartered or licensed with respect to the merger or consolidation. The Hawaii financial institution shall comply with all of the provisions of this chapter and chapter 415, except that the vote by shareholders or members of the Hawaii financial institution to approve the plan of merger or consolidation shall satisfy the requirements of section 412:3-604. If the resulting institution is a Hawaii financial institution, the director of commerce and consumer affairs shall not file articles of merger or consolidation until the plan of merger or consolidation shall have been approved by the commissioner in writing. If the resulting institution is a federal financial institution, the director of commerce and consumer affairs shall not file the articles of merger or consolidation until the plan of merger or consolidation shall have been approved by the commissioner in writing and the resulting federal financial institution shall file with the director of commerce and consumer affairs a confirmation in writing by the commissioner of the date and time of the merger or consolidation, together with the appropriate filing fee pursuant to chapter 415.”

SECTION 4. Section 412:3-609, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) Prior to or after the vote of the shareholders or members upon the plan of merger or consolidation, but prior to delivery of articles of merger or consolidation and plan of merger or consolidation to the director of commerce and consumer affairs, the participating financial institutions shall file an application with the commissioner pursuant to section 412:3-603 for approval of the proposed merger or consolidation. The application shall be accompanied by:

- (1) The plan of merger or consolidation;
- (2) A certificate signed by two executive officers of each of the participating institutions, verifying that the plan of merger or consolidation has been approved by the board of directors of the participating financial institution and that the attached copy of the resolution approving the proposed merger or consolidation is true and correct;
- (3) If any participating financial institution is a federal financial institution or a financial institution chartered or licensed under the laws of any state other than [Hawaii,] this State, any possession or territory of the United States, or any foreign country, a certificate signed by two executive officers verifying that the financial institution has complied, or will comply with all federal laws and regulations or all laws and

- regulations of the jurisdiction under which it is chartered or licensed relating to the merger or consolidation;
- (4) If the resulting financial institution is to be a Hawaii financial institution, the information required from applicants for approval to organize a Hawaii financial institution of the same type as the proposed resulting Hawaii financial institution;
  - (5) If a Hawaii financial institution is seeking to merge or consolidate with a financial institution of another type, the information required from applicants for approval to convert to another type of financial institution; and
  - (6) Any other information that the commissioner may require.”

SECTION 5. Section 412:3-609, Hawaii Revised Statutes, is amended by amending subsections (i) and (j) to read as follows:

“(i) The commissioner shall approve the plan of merger or consolidation if it appears that:

- (1) Any resulting Hawaii financial institution would meet all the requirements under this chapter for a charter or license to the same extent that it would if it were applying for a new charter or license;
- (2) Any resulting financial institution would be adequately capitalized;
- (3) The plan of merger or consolidation is fair to creditors and the shareholders or members of all participating institutions;
- (4) The participating institutions have complied, or will comply, with all requirements, conditions, and limitations imposed by federal law or regulation or by the law or regulation of the jurisdiction under which an institution is chartered or licensed with respect to the merger or consolidation;
- (5) The overall experience, moral character, or integrity of the proposed directors and executive officers of the resulting institution is consistent with the [interest] interests of the depositors, beneficiaries, creditors, shareholders, or members of the financial institution, or in the public interest;
- (6) The merger or consolidation will not jeopardize the safety or soundness of any participating institutions or the resulting institution, and is not otherwise contrary to the public interest;
- (7) The merger or consolidation will not substantially lessen competition or tend to create a monopoly or restraint of trade in any section of the country that includes this State or a part thereof, or that any anti-competitive effects are clearly outweighed in the public interest by the probable effect of the merger or consolidation in meeting the convenience and needs of the community to be served;
- (8) The merger or consolidation will promote the convenience, needs, and advantage of the general public particularly in the communities in which the participating and resulting financial institutions conduct or will conduct [its] their business;
- (9) The grounds for approval of a conversion to another type of financial institution pursuant to section 412:3-608 have been met in the case of a participating Hawaii financial institution seeking to merge or consolidate with a financial institution of a different type; and
- (10) The plan meets any other criteria as the commissioner may deem appropriate.

(j) In the case of a merger, the charter or license of the participating depository financial institution or trust company which is the resulting institution shall continue as the charter or license of the resulting depository financial institu-

tion or trust company upon the effective date of the merger. In the case of a consolidation, when the commissioner is satisfied that the participating depository financial institutions or trust companies have complied with all state and federal law with regard to the consolidation, the commissioner shall issue a charter or license to the consolidated resulting Hawaii depository financial institution or trust company. A nondepository financial services loan company license may be issued to the resulting financial institution in conjunction with a merger or consolidation upon compliance with all applicable laws regarding the issuance of a license to a nondepository financial services loan company.”

SECTION 6. Section 412:3-613, Hawaii Revised Statutes, is amended by amending the title to read:

**“§412:3-613 [Acquisition] Sale or acquisition of assets and transfer or assumption of liabilities.”**

SECTION 7. Section 412:3-613, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) No Hawaii financial institution may sell, exchange, or otherwise dispose of all or substantially all of the financial institution’s assets or business, or all or substantially all of the business of any of its branches, or, if not in the usual and regular course of business, all or substantially all of the assets or business of any of its departments, or may cause or permit the assumption of all or substantially all its liabilities, or any of its deposits, or may acquire all or substantially all of the assets or assume all or substantially all of the liabilities or assume any deposits of another company, unless the commissioner shall have given prior written approval to the acquisition or assumption, and only if the acquisition or assumption complies with this part.

(b) [Each acquisition or assumption] Whenever the transferring financial institution is a Hawaii financial institution, the sale or other disposition of its assets or business or the transfer of its deposits or liabilities subject to this section shall be effected pursuant to the procedures, conditions, and requirements of chapter 415 applicable to[,] the sale of assets other than in the regular course of business; provided that the [acquisition] sale or assumption shall be approved by the shareholders or members of the transferring Hawaii financial institution at a meeting duly called and noticed and upon a vote which satisfies the requirements of section 412:3-604. Notwithstanding the foregoing, the approval of the shareholders or members of the transferring institution shall not be required if the acquisition of all or substantially all of the assets or business, or the assumption of liabilities or deposits, of any of the transferring financial institution’s departments or branches does not constitute an acquisition of all or substantially all of the assets or business, or assumption of all or substantially all of the liabilities or deposits, of the transferring financial institution.”

SECTION 8. Section 412:3-613, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) The commissioner shall approve the acquisition or assumption if it appears that:

- (1) The depositors, beneficiaries, creditors, shareholders, or members, and other persons having any interest in the transferring financial institution will be adequately protected under the plan of acquisition or assumption;
- (2) The amount paid for the acquisition or assumption was determined at arm’s length, and does not appear to be fraudulent;

- (3) The plan of acquisition or assumption does not adversely affect the stability of the acquiring or assuming participant if the participant is a Hawaii financial institution, and, if the sale is part of the liquidation of the transferring financial institution, provides for the orderly dissolution of the transferring institution in a manner consistent with law;
- (4) If one or more of the participants in the transaction is subject to federal regulation, the participants will comply with all applicable federal laws;
- (5) The overall experience, moral character, or integrity of the directors and executive officers of the acquiring or assuming participant is consistent with the interest of the depositors, beneficiaries, creditors, or shareholders of the acquiring or assuming participant, or in the public interest;
- (6) The acquisition or assumption will not jeopardize the safety or soundness of any Hawaii financial institution which is a participant in the transaction, and is not otherwise contrary to the public interest;
- (7) The proposed acquisition or assumption will not substantially lessen competition or tend to create a monopoly or restraint of trade in any section of the country that includes this State or a part thereof, or that any of these anti-competitive effects are clearly outweighed in the public interest by the probable effect of the acquisition or assumption in meeting the convenience and needs of the community to be served; and
- (8) The plan of acquisition or assumption meets such other criteria as the commissioner may deem appropriate.”

SECTION 9. Section 412:12-102, Hawaii Revised Statutes, is amended to read as follows:

“**[§412:12-102]** **Authority of Hawaii state banks to establish interstate branches by merger.** (a) With the prior approval of the commissioner, a Hawaii state bank may establish and operate one or more branches in a state other than Hawaii, pursuant to an interstate merger transaction in which the Hawaii state bank is the resulting bank.

(b) Not later than the date on which the required application for the interstate merger transaction is filed with the responsible federal bank supervisory agency, the applicant Hawaii state bank shall comply with and the application shall be processed in accordance with all applicable provisions of [this] part VI, article 3, of this chapter. The interstate merger transaction may be consummated and the Hawaii state bank may establish and operate the branches outside of Hawaii only after the applicant has received the commissioner’s written approval.”

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

A Bill for an Act Relating to Senior Psychologists.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 465-7, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) A license may be issued to a senior psychologist who satisfies subsection (a)(1) and (2), and the following:

- (1) Holds a valid and current license in another jurisdiction in which the Examination for Professional Practice in Psychology was not required for licensure at the time of licensure[;] or in a jurisdiction in which the Examination for Professional Practice in Psychology was required and the applicant obtained a score that was equal to or higher than the board’s passing score at the time the applicant sat for the Examination for Professional Practice in Psychology;
- (2) Before application in this jurisdiction, has been licensed as a psychologist for at least twenty years in [a] United States or Canadian [jurisdiction] jurisdictions where that license was based on a doctoral degree[;]. The total of twenty years shall be obtained by counting sequential, not concurrent, years of licensure;
- (3) Has had no disciplinary sanction against the person’s license in any jurisdiction during the entire period of being licensed as a psychologist;
- (4) Has passed an open book examination in jurisprudence; and
- (5) Has submitted the application and fees as required.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

A Bill for an Act Relating to the Management of Financing Agreements.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to clarify and make technical changes to the statutes on the management of financing agreements.

SECTION 2. Section 37-34, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Before appropriations for the University of Hawaii become available to the university, the university shall advise the governor and the director of finance of the amount necessary for payments for financing agreements under chapter 37D, the governor, with the assistance of the director of finance, as may be necessary, shall establish allotment ceilings for each source of funding of all of the appropriations of the University of Hawaii for each allotment period and shall advise the university of these determinations.”

SECTION 3. Section 37-34.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§37-34.5]]~~ **Department of education; allotment and expenditure plan; updates.** The department of education shall submit an annual allotment and expenditure plan, including a separate description of all existing financing agreements of the department of education that require funding, together with a statement of the amount of funding required, and all proposed financing agreements of the department of education for the ensuing fiscal year, to the governor for each fiscal year. The governor may require the department of education to submit an update of the expenditure plan based on changing economic conditions.”

SECTION 4. Section 37-41.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The department of education may retain up to five per cent of any appropriation except for appropriations to fund financing agreements entered into in accordance with chapter 37D, for the school-based budgeting program EDN 100 at the close of a fiscal year and the funds retained shall not lapse until June 30 of the first fiscal year of the next fiscal biennium. The department of education shall submit:

- (1) A report to the director of finance, by the close of the first fiscal year, identifying the total amount of funds that will carry over to the second fiscal year; and
- (2) A copy of this report to the legislature, as well as a report identifying the carryover of funds on a school-by-school basis, at least twenty days prior to the convening of the next regular session of the legislature.”

SECTION 5. Section 37-74, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

“(c) The department of budget and finance shall:

- (1) Review each operations plan to determine:
  - (A) That it is consistent with the policy decisions of the governor and appropriations by the legislature;
  - (B) That it reflects proper planning and efficient management methods; and
  - (C) That appropriations have been made for the planned purpose and will not be exhausted before the end of the fiscal year; provided that the department of budget and finance shall review the operations plan submitted by the University of Hawaii solely for consistency with the allotment ceilings established by the governor under section 37-34, appropriations by the legislature, the requirements of chapter 37D, and the status of revenues to support operations plans for all state programs;
- (2) Approve the operations plan if satisfied that it meets the requirements under paragraph (1). Otherwise, the department of budget and finance shall require revision of the operations plan in whole or in part; and
- (3) Modify or withhold the planned expenditures at any time during the appropriation period if the department of budget and finance finds that the expenditures are greater than those necessary to execute the programs at the level authorized by the governor and the legislature, or that state receipts and surpluses will be insufficient to meet the authorized expenditure levels; provided that the planned expenditures for the University of Hawaii may be modified or withheld only in accordance with sections 37-36 and 37-37.

(d) No appropriation transfers or changes between programs or agencies shall be made without legislative authorization; provided that:

- (1) Authorized transfers or changes, when made, shall be reported to the legislature;
- (2) [The] Except with respect to appropriations to fund financing agreements under chapter 37D, the University of Hawaii shall have the flexibility to transfer general fund appropriations for the operating cost category among programs with the same or similar objectives, among cost elements in a program, and between quarters, as applicable; and the Hawaii health systems corporation shall have the flexibility to transfer special fund appropriations among community hospitals facilities as applicable; provided that the Hawaii health systems corporation shall maintain the integrity and services of each individual facility and shall not transfer appropriations out of any facility [which] that would result in a reduction of services offered by the facility, with due regard for statutory requirements, changing conditions, the needs of the programs, and the effective utilization of resources; and
- (3) The university shall account for each transfer implemented under this subsection in quarterly reports to the governor and annual reports at the end of each fiscal year to the legislature and the governor, which shall be prepared in the form and manner prescribed by the governor and shall include information on the sources and uses of the transfer.”

SECTION 6. Section 37D-2, Hawaii Revised Statutes, is amended to read as follows:

“[[§37D-2]] **Financing agreements.** Only with the approval of the director, and the approval by the attorney general of form and legality, may the agency enter into a financing agreement in accordance with this chapter[.]. A financing agreement may be entered into at the time (before or after commencement or completion of any improvement to be financed) and shall be upon terms the agency finds to be advantageous. Any financing agreement entered into by the agency without the approvals required by this section shall be void and of no effect. Financing agreements shall be subject to the following limitations:

- (1) Amounts payable by the agency under a financing agreement shall be limited to available funds. In no circumstance shall the agency be obligated to pay amounts due under a financing agreement from any source other than available funds. If, by reason of insufficient available funds or other reason, amounts due under a financing agreement are not paid when due, the lender may exercise any property right that the agency has granted to it in the financing agreement, against the property that was purchased with the proceeds of the financing agreement, and apply the amounts so received toward payments scheduled to be made by the agency under the financing agreement;
- (2) No property rights may be granted in property unless the property is being acquired, is to be substantially improved, [or] is to be refinanced with the proceeds of a financing agreement, or is land on which [such] the property is located;
- (3) The agency shall not enter into financing agreements under any provision of law other than this chapter if the principal amount of the financing agreement, together with the principal amount of any financing agreement previously issued by the agency for the same project, exceeds \$100,000; and



- (4) The sale, assignment, or other disposition of any financing agreements, including certificates of participation, shall require the approval of the director.”

SECTION 7. Section 37D-3, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§37D-3]]~~ **Related agreements.** With the approval of the director and the approval by the attorney general of form and legality, an agency may:

- (1) Enter into agreements with trustees, within or without the State, to hold financing agreement proceeds, payments, and reserves as security for lenders to accept assignments of rights in the financing agreement from, and to enforce such rights of, the lessor or other party thereto, and to issue certificates of participation for the right to receive payments due from the agency under a financing agreement. Amounts held by a trustee shall be invested by the trustee at the direction of the agency in such investments as shall be specified in the agreement with the trustee. Interest earned on any investment held by a trustee as security for a financing agreement may, at the option of the agency, be credited to the accounts held by the trustee and applied in payment of sums due under a financing agreement;
- (2) Enter into credit enhancement agreements for financing agreements or certificates of participation[,]; provided that the credit enhancement agreements shall be payable solely from available funds and amounts received from the exercise of property rights granted under such financing agreements;
- (3) Use financing agreements to finance the costs of acquiring or refinancing property, plus the costs of reserves and credit enhancements and costs associated with obtaining the financing;
- (4) Use a single financing agreement to finance property to be used by multiple agencies;
- (5) Grant leases of real property subject to section 37D-2(2). The leases may be for a term that ends on the date on which all amounts due under a financing agreement have been paid or provision for payment has been made[,], or ten years after the last scheduled payment under a financing agreement, whichever is later. The leases may grant the lessor the right to evict the agency and exclude it from possession of the real property for the term of the lease, if the agency fails to appropriate or pay when due the amounts scheduled to be paid under a financing agreement or otherwise defaults under a financing agreement. Upon failure to pay or default, the lessor may sublease the land to third parties and apply any rentals toward payments scheduled to be made under a financing agreement;
- (6) Grant security interests in personal property subject to section 37D-2(2). The security interests shall attach and be perfected on the date the agency takes possession of the personal property, or the date the lender advances money under a financing agreement, whichever is later. A security interest authorized by this section shall have, except as otherwise provided by law, priority over all other liens and claims. Upon failure to pay or default, the secured party shall have the rights and remedies available to a secured party under chapter 490 or a first, perfected security interest in goods and fixtures. No later than ten days after a security interest authorized by this section attaches, the agency shall cause a financing statement for the security interest to be filed

- with the bureau of [conveyance] conveyances in the same manner as financing statements are filed for goods;
- (7) Pledge any amounts that are deposited with a trustee in accordance with a financing agreement. The pledge shall be valid and binding from the time it is made, the amounts so pledged shall immediately be subject to the lien of the pledge without filing, physical delivery, or other act, and the lien of the pledge shall be superior to all other claims and liens of any kind whatsoever;
  - (8) Bill any other agency that benefits from property acquired with the proceeds of a financing agreement for an appropriate share of the financing costs, including debt service, on a monthly or other periodic basis, and deposit payments received in connection with the billings with a trustee as security for a financing agreement. Any agency receiving such a bill shall be authorized and shall pay the amounts billed from the first amounts legally available to it; [and]
  - (9) Purchase fire and extended coverage or other casualty insurance, or liability, title, rental interruption or other insurance for property that is acquired or refinanced with proceeds of a financing agreement, assign the proceeds thereof to a lender or trustee to the extent of their interest, and covenant to maintain such insurance while the financing agreement is unpaid, so long as available funds are sufficient to purchase such insurance[.]; and
  - (10) In connection with any financing agreement by which any agency leases or purchases property from another party, notwithstanding and without regard to chapter 171 or any other law, the agency may lease or sell, on such terms as the agency shall determine, to that party the site or property to be improved or otherwise to be leased or sold back to the agency.”

SECTION 8. Section 37D-4, Hawaii Revised Statutes, is amended to read as follows:

“[[§37D-4]] Inclusion in governor’s budget request. There shall be included in the governor’s budget request to the legislature, for each fiscal period, amounts sufficient to permit the payment of all amounts that will be due [on unpaid] under financing agreements during that fiscal period[.], including any expenses and replenishment of any reserve funds up to the balances required by the respective financing agreements.”

SECTION 9. Section 37D-8, Hawaii Revised Statutes, is amended to read as follows:

“[[§37D-8]] Exemption from taxation. All real and personal property owned or operated by the agency, and any interests created in or transfer or recording of the property or any interest in the property, and payments made under the financing agreements to which the property is subject shall be exempt from all state, county, and municipal taxation[.], and fees and charges of every kind. Financing agreements issued pursuant to this chapter and the income therefrom, including, without limitation, the interest component of any lease payments, shall be exempt from all taxation by the agency or any county or other political subdivision thereof, except inheritance, transfer, and estate taxes.”

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

## ACT 42

H.B. NO. 2816

A Bill for an Act Relating to Pharmacist Licensure Examinations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 461-6, Hawaii Revised Statutes, is amended to read as follows:

**“§461-6 Examination; license.** (a) Every applicant for a license as a pharmacist shall [pass the National Association of Boards of Pharmacy Licensure Examination (NABPLEX) with a score of not less than seventy-five, the Federal Drug Law Examination (FDLE) with a score of not less than seventy-five, and the state jurisprudence examination with a score of not less than seventy-five.] meet all qualifications set by the board including, but not limited to, passing all examinations as prescribed by rules of the board. The board shall determine the passing score for each examination.

(b) Every applicant for a license as a pharmacist, except an applicant applying under section 461-8.5, shall apply on a form to be supplied by the board and shall either file the form with the board at least sixty days before the examination, or if taking the [exam] examination in another state pursuant to the National Association of Boards of Pharmacy Score Transfer Program, shall file the form no later than ninety days after the examination. Each application shall be accompanied by application and examination fees. [Examinations shall be held at least twice a year.] The board shall establish the schedule for examinations.

(c) Each applicant who successfully passes [the] each required examination and meets all other requirements of the board shall pay a license fee.

(d) [Applicants who fail the National Association of Boards of Pharmacy Licensure Examination, or Federal Drug Law Examination, or state jurisprudence] An applicant who fails an examination shall file an application for reexamination in the examination for which a passing score was not achieved and shall not be licensed until the applicant successfully passes all of the licensure examinations.”

SECTION 2. Section 461-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**“(a)** A registered pharmacist of any state or territory of the United States who does not have an encumbered license or any pending disciplinary action or unresolved complaints in any state or territory of the United States and who is not eligible for licensure by reciprocity under section [461-8.5(5)] 461-8.5 may be granted a temporary license by the board; provided that the person shall first pass [the state] a jurisprudence examination [with a score of not less than seventy-five.] as required by the board.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

A Bill for an Act Relating to Early Intervention.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 378, Session Laws of Hawaii 1997, is amended:

1. By amending section 2 to read as follows:

“SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended by adding [four] three new sections to part XXVIII to be appropriately designated and to read as follows:

**§321- Early intervention special fund.** (a) There is established in the state treasury a special fund to be known as the early intervention special fund to be administered by the department in accordance with this section.

(b) The fund shall consist of grants and income earned by the special fund. Notwithstanding section 29-24, all program income consisting of federal reimbursement funds received by the State for early intervention funded by legislative appropriations under this part shall be deposited into the special fund; provided that no state appropriations shall be deposited into the special fund.

**§321- Early intervention trust fund.** (a) There is established in the state treasury a trust fund to be known as the early intervention trust fund to be administered by the department in accordance with this section.

(b) The trust fund shall consist of government grants and private contributions including[,] but not limited to[,] gifts or donations from corporations or other businesses, foundations, individuals, and other interested parties, and income earned by the trust fund. Notwithstanding section 29-24, all program income consisting of federal reimbursement funds received by the State for early intervention funded by private donations and contributions under this part shall be deposited into the trust fund.

**§321- Early intervention funds; purpose and use.** (a) The purpose of the early intervention special fund and early intervention trust fund is to expand and enhance early intervention services for infants and toddlers with special needs by providing a cooperative funding mechanism between the public and private sectors to work together to make and secure appropriations and donations to the funds.

(b) The department may [make grants from the funds under chapter 42D, pursuant to] procure services under chapters 103D and 103F in accordance with criteria and procedures established by rules adopted pursuant to chapter 91, for community-based, family-centered, early intervention services including[,] but not limited to:

- (1) Programs to provide early intervention services for infants and toddlers with developmental delays or at biological or environmental risk;
- (2) Family support programs to strengthen families to reduce the risk of child abuse and neglect;
- (3) Training and education for professionals, paraprofessionals, and families; and
- (4) Research, evaluation, and data management related to early intervention services.

(c) [Grants made] Services to be procured under [subsection (b)] this section shall be in accordance with chapters 103D and 103F and take the following forms:

- (1) [Grants] Purchase of service contracts to private nonprofit organizations, public agencies, or qualified individuals to provide community-based, family-centered, early intervention services; or
  - (2) Direct payments for services, educational materials, training, quality assurance, equipment, data collection, and program evaluation.
  - (d) The Hawaii early intervention coordinating council shall make recommendations to the department for the expenditure of moneys from the funds.’’
2. By amending section 8 to read as follows:  
 ‘‘SECTION 8. This Act shall take effect on July 1, 1997[, and shall be repealed on June 30, 1999].’’

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 1998.

(Approved April 29, 1998.)

## ACT 44

H.B. NO. 2850

A Bill for an Act Relating to Small Estates.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to increase the amount of the estate value in cases where the clerk of the circuit court may act as guardian of the property where a guardian has been requested pursuant to section 560:5-404, Hawaii Revised Statutes, from less than \$8,000 to less than \$10,000.

SECTION 2. Section 551-21, Hawaii Revised Statutes, is amended to read as follows:

‘‘**§551-21 Small estates; clerk of the court to act when.** Whenever so requested as provided in section 560:5-404, the court may appoint the clerk of the court of that circuit as guardian of the property of the protected person whose estate is of a value of less than [~~\$8,000~~] \$10,000 who shall serve in such capacity, with the full powers of and under like obligations as other guardians appointed under this chapter and chapter 560, except that the clerk shall not be required to give any bond; nor shall the clerk be entitled to any commission or compensation except for expenses necessarily and actually incurred, nor shall the clerk or the protected person or the estate of the protected person be liable for any court costs arising out of the guardianship, except the actual cost of any advertising found necessary. The right of the clerk to act as the guardian of the property shall not be affected by reason of any increase of the estate to an amount in excess of [~~\$8,000~~] \$10,000 as the result of any accumulations of income accruing from the original principal of the estate or by the increase in value of the principal; provided that if the estate reaches in value the sum of [~~\$13,000~~] \$16,250, a guardian of the property shall then be appointed under the preceding sections of this chapter or the court may, in its discretion, allow the guardian appointed under this section to continue to act even though the total assets exceed [~~\$13,000.~~] \$16,250.’’

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

**ACT 45**

SECTION 4. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

**ACT 45**

H.B. NO. 2857

A Bill for an Act Relating to the Chronic Renal Disease Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Part XI of chapter 321, Hawaii Revised Statutes, is repealed.

SECTION 2. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

**ACT 46**

H.B. NO. 2867

A Bill for an Act Relating to Employment on Public Works Projects.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 104-23, Hawaii Revised Statutes, is amended to read as follows:

**“§104-23 Notification of violation.** (a) When the department, either as a result of a report by a contracting agency or as a result of the department’s own investigation, finds that a violation of this chapter or of the terms of the contract subject to this chapter has been committed, the department shall issue a notification of violation to the contractor or subcontractor involved.

(b) A notification of violation shall be final and conclusive twenty days after a copy was mailed to the violator, unless within the twenty-day period the violator files a written notice of appeal with the director.

(c) A hearing on the written notice of appeal shall be held by a hearings officer appointed by the director in conformance with chapter 91.

Hearings on appeal shall be held within sixty days of the notice of appeal and a decision shall be rendered by the [director] hearings officer within sixty days after the conclusion of the hearing, stating the findings of fact and conclusions of law. The [director] hearings officer may extend the due date for decision for good cause; provided that all parties agree.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

## ACT 47

H.B. NO. 2883

A Bill for an Act Relating to Kawainui Marsh.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 314, Session Laws of Hawaii 1990, is amended by amending section 1 to read as follows:

“SECTION 1. The estate, right, title, and interest, and any appurtenance thereto, of the city and county of Honolulu relating to Kawainui Marsh, tax map key no. 4-2-16:1, lot 2-b, less the [community park] area[,] makai of the boundary defined as five feet from the toe of the Coconut Grove side of the flood control levee, beginning at the Oneawa Canal and ending at the State-owned parcel identified by tax map key number 4-2-16:02, lot A, shall be vested in the State in fee simple; provided that the city and county of Honolulu and the United States Army Corps of Engineers shall have first completed all pending flood control projects for Kawainui Marsh to the satisfaction of the department of land and natural resources; provided further that at the time of the transfer of Kawainui Marsh to the State, the State shall enter into any required operation or maintenance agreements, or both, with the United States Army Corps of Engineers.

Pending the completion of the transfer of Kawainui Marsh to the State, the State and the city and county of Honolulu shall enter into a management lease, license agreement, or other similar agreement to enable the department of land and natural resources, on behalf of the State, to manage the economic, ecological, and cultural resources of Kawainui Marsh as provided in the 1983 Kawainui Marsh resource management plan. The lease or agreement shall provide for the notification of the city and county of Honolulu of any undertaking relating to the operation and maintenance of Kawainui Marsh and allow the city and county of Honolulu the opportunity for review of the effect of the proposed undertaking.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

## ACT 48

H.B. NO. 2899

A Bill for an Act Relating to Donations to Government Agencies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 92-5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A board may hold a meeting closed to the public pursuant to section 92-4 for one or more of the following purposes:

- (1) To consider and evaluate personal information relating to individuals applying for professional or vocational licenses cited in section 26-9 or both;
- (2) To consider the hire, evaluation, dismissal, or discipline of an officer or employee or of charges brought against the officer or employee, where consideration of matters affecting privacy will be involved; provided

that if the individual concerned requests an open meeting, an open meeting shall be held;

- (3) To deliberate concerning the authority of persons designated by the board to conduct labor negotiations or to negotiate the acquisition of public property, or during the conduct of such negotiations;
- (4) To consult with the board's attorney on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities;
- (5) To investigate proceedings regarding criminal misconduct; [and]
- (6) To consider sensitive matters related to public safety or security[.]; and
- (7) To consider matters relating to the solicitation and acceptance of private donations."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

ACT 49

H.B. NO. 2942

A Bill for an Act Relating to Offenses Against Property Rights.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 708-801, Hawaii Revised Statutes, is amended to read as follows:

**“§708-801 Valuation of property.** Whenever the value of property or services is determinative of the class or grade of an offense, or otherwise relevant to a prosecution, the following shall apply:

- (1) Except as otherwise specified in this section, value means the market value of the property or services at the time and place of the offense, or the replacement cost of<sup>1</sup> the market value of the property or services cannot be determined.
- (2) Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertained market value, shall be evaluated as follows:
  - (a) The value of an instrument constituting an evidence of debt, such as a check, traveler's check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;
  - (b) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.
- (3) When property has value but that value cannot be ascertained pursuant to the standards set forth above, the value shall be deemed to be an amount not exceeding \$100.
- (4) When acting intentionally or knowingly with respect to the value of property or services is required to establish an element of an offense, the value of property or services shall be prima facie evidence that the



defendant believed or knew the property or services to be of that value. When acting recklessly with respect to the value of property or services is sufficient to establish an element of an offense, the value of the property or services shall be prima facie evidence that the defendant acted in reckless disregard of the value.

- (5) When acting intentionally or knowingly with respect to the value of property or services is required to establish an element of an offense, it is a defense, which reduces the class or grade of the offense to a class or grade of offense consistent with the defendant's state of mind, that the defendant believed the valuation of the property or services to be less. When acting recklessly with respect to the value of property or services is required to establish an element of an offense, it is a defense that the defendant did not recklessly disregard a risk that the property was of the specified value.
- (6) Amounts involved in thefts committed pursuant to one scheme or course of conduct, whether the property [damaged] taken be of one person or several persons, may be aggregated in determining the class or grade of the offense. Amounts involved in offenses of criminal property damage committed pursuant to one scheme or course of conduct, whether the property damaged be of one person or several persons, may be aggregated in determining the class or grade of the offense."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

**Note**

1. Prior to amendment "if" appeared here.

**ACT 50**

H.B. NO. 3031

A Bill for an Act Relating to the Campaign Spending Commission.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-217, Hawaii Revised Statutes, is amended to read as follows:

**“§11-217 Hawaii election campaign fund; creation.** The Hawaii election campaign fund is created as a trust fund within the state treasury. The fund shall consist of all moneys collected from persons who have designated a portion of their income tax liability to the fund as provided in section 235-102.5, any general fund revenues appropriated, as well as all other moneys collected pursuant to this subpart. Payment to each candidate from the fund shall be by the comptroller in the manner prescribed in section 11-222. [No more than \$100,000 may be appropriated annually for the administration of the program under this subpart.] Moneys from this fund may also be used for the operating expenses of the commission, including staff salaries and fringe benefits.”

## ACT 51

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 1998.

(Approved April 29, 1998.)

## ACT 51

H.B. NO. 3053

A Bill for an Act Relating to Civil Service.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 76-28, Hawaii Revised Statutes, is amended to read as follows:

**“§76-28 Notices required of appointing authorities.** The director of human resources development shall maintain records of all appointments, terminations of employment, transfers, resignations, suspensions, demotions, and dismissals. [For this purpose, all appointing] Appointing authorities shall file necessary forms [with the director notices] of such personnel actions[. In the case of suspensions, dismissals, and demotions, the appointing authorities shall also file with the director copies of the written statements given to employees under sections 76-45 and 76-46.] as the director may request. “

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

## ACT 52

H.B. NO. 3054

A Bill for an Act Relating to Performance Ratings of Employees in the Civil Service.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 76-41, Hawaii Revised Statutes, is amended to read as follows:

**“§76-41 Performance ratings.** There shall be established and maintained a system of performance ratings for the purpose of appraising the service of employees in the civil service and improving the employees' performance. Each department shall rate each employee under its jurisdiction in accordance with the system and shall, upon request by the director of the respective jurisdiction, transmit the final performance ratings to the director of human resources development. A copy of the final performance rating shall [also] be given to the affected employee[.], and the original shall be filed in the employee's official personnel file.

The department head shall inform an employee in writing whenever the employee's performance in the employee's position is substandard. The employee shall also be notified in the notice and from time to time thereafter as may be

necessary, of the manner in which the employee's performance is substandard. [Continued substandard performance for a period of three months after the written notice may be used as the basis for denying any step increment. Any employee who has been denied a step increment may be subsequently granted an increment whenever the employee's performance has been brought up to standard and has so continued for any three-month period. The denying of a step increment shall be a subject for grievance procedure. No action taken under this section shall change or in any way affect the employee's service anniversary date.]”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

## ACT 53

H.B. NO. 3055

A Bill for an Act Relating to Civil Service.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 76-28,<sup>1</sup> Hawaii Revised Statutes, is amended to read as follows:

“**§76-56 Annual report.** The state director of human resources development [and each county civil service commission] shall make a report to the governor [or mayor,] and to the members of the legislature [or county council] not later than February 15 of each year, which report shall review the operations of each respective department and the administration of the personnel system for the preceding year. The report shall also contain recommendations in the laws relating to the personnel system, deemed by the director [or the commission] to be necessary or desirable to further promote the merit system for public employment.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

### Notes

1. So in original.
2. No underscored material.

## ACT 54

H.B. NO. 3466

A Bill for an Act Relating to Retention of Cashed Warrants.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 40-11, Hawaii Revised Statutes, is amended to read as follows:

“**§40-11 Destruction of warrants, bonds and interest coupons.** The director of finance and comptroller may destroy all warrants of the State which have been paid and bear any date three years prior to the date of destruction; provided that the warrants have been [microfilmed] copied to an unalterable media or electronic storage form and the [microfilmed] copies of the warrants are maintained for ten years from the date of the warrant. Otherwise, state warrants which have been paid cannot be destroyed until ten years from the date of the warrant. The director of finance and comptroller may destroy state bonds and interest coupons which have been paid and bear any date two years prior to the date of destruction. The director of finance and comptroller may appoint the fiscal agent for the bond issue to supervise and conduct the destruction of state bonds and interest coupons which have been paid and bear any date two years prior to the date of destruction. The fiscal agent so appointed shall submit reports as required by the director of finance and comptroller. State warrants, bonds, and interest coupons may be destroyed by burning, machine shredding, chemical disintegration, or any other method of disposal deemed acceptable to the director of finance and comptroller.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

## ACT 55

S.B. NO. 1071

A Bill for an Act Relating to the Opening of the Absentee Polling Place.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 15-7, Hawaii Revised Statutes, is amended to read as follows:

“**§15-7 Absentee polling place.** (a) Absentee polling places shall be established at the office of the respective clerks, and may be established at such other sites as may be designated by the clerk under the provisions prescribed in the rules adopted by the chief election officer. Section 11-21 relating to changes and transfers of registration shall apply to the absentee polling place as though it were the precinct at which a person’s name properly appears on the list of registered voters.

(b) The absentee polling places shall be open no later than [eighteen days] ten working days before election day, and all Saturdays falling within that time period, or as soon thereafter as ballots are available[, to handle the absentee voters who are voting in person.]; provided that all absentee polling places shall be open on the same date statewide, as determined by the chief election officer.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

## ACT 56

S.B. NO. 2123

A Bill for an Act Relating to Boards of Registration.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-42, Hawaii Revised Statutes, is amended to read as follows:

**“§11-42 Compensation[; expenses].** Members of the boards of registration shall be compensated [at the rate of \$70 a day for each day of actual service and may be reimbursed for any necessary expense incurred in the performance of their authorized duties.] pursuant to a schedule established by the chief election officer. The schedule shall be contained in rules adopted pursuant to chapter 91.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 1998.

(Approved April 29, 1998.)

## ACT 57

S.B. NO. 2308

A Bill for an Act Relating to Private Trade, Vocational, or Technical Schools.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 302A-425, Hawaii Revised Statutes, is amended to read as follows:

**“~~[[§302A-425]]~~ License required for private trade, vocational, or technical school.** No private trade, vocational, or technical school shall be operated by any person or persons, firm, or any other private organization or corporation for the purpose of teaching any trade, occupation, or vocation unless there is first secured from the department a license issued in accordance with sections 302A-424 to 302A-428 and in such form as the department may direct. The purpose of the licensing and regulation is to protect consumers against practices by private trade, vocational, or technical schools that are false, deceptive, misleading, or unfair, and to help ensure adequate educational quality at private trade, vocational, or technical schools.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

A Bill for an Act Relating to Boxing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 440-35, Hawaii Revised Statutes, is amended to read as follows:

**“§440-35 Not to apply to army, air force, navy, [or] national guard[.], or police activities league.** [Except as provided in this section, none of the provisions of this chapter shall be construed as having any application] This chapter shall not apply to any boxing contest held as a recreational activity by army, air force, navy, [and] or national guard personnel, or the police activities league, when [any] the contest is held under the supervision of [any] a recreational officer of the army, air force, navy, or national guard, or a police activities league staff member; provided that no contest shall be held in any place subject to the jurisdiction of the boxing commission unless the commission has first granted a license to hold the same, for which license no fee shall be charged.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

A Bill for an Act Relating to Emergency Medical Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Department of Health shall plan and develop a statewide emergency aeromedical services system which shall meet the requirements of Chapter 321, Part XVIII, Hawaii Revised Statutes. The Department of Health shall report its progress in planning and developing the system to the Legislature no later than twenty days before the convening of the Regular Session of 1999.

SECTION 2. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

A Bill for an Act Relating to Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 302A-1154, Hawaii Revised Statutes, is amended to read as follows:

**“[[§302A-1154]] Immunization upon entering school; tuberculosis clearance.** (a) No child shall attend any school in the State unless the child presents to the appropriate school official certification from a licensed physician or advanced practice registered nurse stating that the child has received immunizations against communicable diseases as required by the department of health.

(b) No child shall be admitted to attend any school for the first time in the State unless the child presents to the appropriate school official certification from a licensed physician, advanced practice registered nurse, or other authorized personnel stating the child has received a tuberculin test or x-ray and is free from tuberculosis in a communicable form.”

SECTION 2. Section 302A-1155, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A child may enter school provisionally upon submitting written proof from a licensed physician, advanced practice registered nurse, or an authorized representative of the department of health stating that the child is in the process of receiving the required immunizations. Further certification showing that the required immunizations have been completed must be submitted to the appropriate school official no later than three months after the child first entered the school. If all of the required immunizations cannot be completed within three months due to the length of the minimum intervals between doses of a particular vaccine required by the department of health, provisional admission may be extended so long as the child’s parent or guardian provides proof that appointments for required immunizations have been made and that progress toward completing the immunizations continues in accordance with the requirements of the department of health.”

SECTION 3. Section 302A-1158, Hawaii Revised Statutes, is amended to read as follows:

**“[[§302A-1158]] Immunization of indigent children.** The department of health shall provide all immunizations and tuberculin tests to comply with sections 302A-1154 to 302A-1163, as far as public funds will permit, to each child whose parents, guardians, or custodians cannot afford to have the child immunized or tested for tuberculosis, and who have not been exempted under section 302A-1156. Nothing in this section shall preclude the department of health from distributing immunizations and vaccines to physicians, advanced practice registered nurses, or other authorized persons as required by law or by the rules of the department of health.”

SECTION 4. Section 302A-1159, Hawaii Revised Statutes, is amended to read as follows:

**“[[§302A-1159]] Physical examination required.** No child shall be admitted to any school for the first time in the State unless the child presents to the appropriate school official a certification from a licensed physician or advanced practice registered nurse stating that the child has undergone a physical examination. The physical examination shall be performed within a year of the date of entry into school. A child may enter school provisionally upon submitting written proof from a licensed physician, advanced practice registered nurse, or other authorized representative of the department of health stating that the child is in the process of undergoing a physical examination. Further certification showing that the required physical examination has been completed must be submitted to the appropriate school official no later than three months after the child first entered the school.”

## ACT 61

SECTION 5. Section 302A-1160, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§302A-1160]]~~ **Health certificates.** The department of education shall provide health certificate forms for immunization and physical examination to the schools, private physicians, advanced practice registered nurses, and authorized personnel of the department of health. Any immunization record signed by a licensed physician or advanced practice registered nurse may be accepted by the appropriate school official as certification of immunization if the information is transferred to the health certificate form and verified by the appropriate school official.”

SECTION 6. Section 325-33, Hawaii Revised Statutes, is amended to read as follows:

“**§325-33 Performance of vaccination and immunization.** Vaccinations or immunizations required of any person under this chapter shall be performed by duly licensed physicians or paramedical personnel under their direction, advanced practice registered nurses, or by authorized representatives of the department of health. A record of the immunization shall be maintained by the physician or advanced practice registered nurse and shall be available to the department of education for school entry requirements and the department of health.”

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

## ACT 61

S.B. NO. 2466

A Bill for an Act Relating to Guardianship.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 560:5-207, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Notice of the time and place of hearing of a petition for the appointment of a guardian of the person of a minor shall be given by the petitioner to the minor, if the minor is fourteen or more years of age, by personal service. In addition, notice of the time and place of hearing of a petition for the appointment of a guardian of the person of a minor is to be given by the petitioner in the manner prescribed by section 560:1-401 to:

- (1) The person who has had the principal care and custody of the minor during the sixty days preceding the filing of the petition;
- (2) Any living legal parent[;] except persons whose parental rights have been terminated pursuant to chapters 571 or 587;
- (3) Any living legal grandparent of the minor. For good cause, the court may waive notice to a grandparent upon showing that all reasonable efforts have been made to ascertain the identity and address of the person or to effect notice, that the efforts were unsuccessful, and that further efforts should not be required because the legal grandparent has



- not demonstrated a reasonable degree of interest or concern in the minor; and  
 (4) Any guardian of the minor’s property.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

**ACT 62**

S.B. NO. 2472

A Bill for an Act Relating to Trade Regulations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 480-21, Hawaii Revised Statutes, is amended to read as follows:

“**§480-21 Court and venue.** Any action or proceeding, whether civil or criminal, authorized by this chapter shall be brought in [the circuit court for] any appropriate court in the circuit in which the defendant resides, engages in business, or has an agent, unless otherwise specifically provided herein.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

**ACT 63**

S.B. NO. 2611

A Bill for an Act Relating to the Uniform Transfer-on-Death (TOD) Security Registration Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
 UNIFORM TRANSFER-ON-DEATH (TOD)  
 SECURITY REGISTRATION ACT**

§ -1 **Definitions.** In this chapter, unless the context otherwise requires: “Beneficiary form” means a registration of a security which indicates the present owner of the security and the intention of the owner regarding the person who will become the owner of the security upon the death of the owner.

“Devisee” means any person designated in a will to receive a disposition of real or personal property.

“Heirs” means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

“Person” means an individual, a corporation, an organization, or other legal entity.

“Personal representative” includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status.

“Property” includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

“Register”, including its derivatives, means to issue a certificate showing the ownership of a certificated security or, in the case of an uncertificated security, to initiate or transfer an account showing ownership of securities.

“Registering entity” means a person who originates or transfers a security title by registration, and includes a broker maintaining security accounts for customers and a transfer agent or other person acting for or as an issuer of securities.

“Security” means a share, participation, or other interest in property, in a business, or in an obligation of an enterprise or other issuer, and includes a certificated security, an uncertificated security, and a security account.

“Security account” means (1) a reinvestment account associated with a security, a securities account with a broker, a cash balance in a brokerage account, cash, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner’s death, or (2) a cash balance or other property held for or due to the owner of a security as a replacement for or product of an account security, whether or not credited to the account before the owner’s death.

“State” includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

**§ -2 Registration in beneficiary form; sole or joint tenancy ownership.**

Only individuals whose registration of a security shows sole ownership by one individual or multiple ownership by two or more with right of survivorship, rather than as tenants in common, may obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants with right of survivorship, as tenants by the entireties, or as owners of community property held in survivorship form, and not as tenants in common.

**§ -3 Registration in beneficiary form; applicable law.**

A security may be registered in beneficiary form if the form is authorized by this or a similar statute of the state of organization of the issuer or registering entity, the location of the registering entity’s principal office, the office of its transfer agent or its office making the registration, or by this or a similar statute of the law of the state listed as the owner’s address at the time of registration. A registration governed by the law of a jurisdiction in which this or similar legislation is not in force or was not in force when a registration in beneficiary form was made is nevertheless presumed to be valid and authorized as a matter of contract law.

**§ -4 Origination of registration in beneficiary form.**

A security, whether evidenced by certificate or account, is registered in beneficiary form when the registration includes a designation of a beneficiary to take the ownership at the death of the owner or the deaths of all multiple owners.

**§ -5 Form of registration in beneficiary form.**

Registration in beneficiary form may be shown by the words “transfer on death” or the abbreviation

“TOD”, or by the words “pay on death” or the abbreviation “POD”, after the name of the registered owner and before the name of a beneficiary.

**§ -6 Effect of registration in beneficiary form.** The designation of a transfer-on-death beneficiary on a registration in beneficiary form has no effect on ownership until the owner’s death. A registration of a security in beneficiary form may be canceled or changed at any time by the sole owner or all then surviving owners without the consent of the beneficiary.

**§ -7 Ownership on death of owner.** On death of a sole owner or the last to die of all multiple owners, ownership of securities registered in beneficiary form passes to the beneficiary or beneficiaries who survive all owners. On proof of death of all owners and compliance with any applicable requirements of the registering entity, a security registered in beneficiary form may be reregistered in the name of the beneficiary or beneficiaries who survived the death of all owners. Until division of the security after the death of all owners, multiple beneficiaries surviving the death of all owners hold their interests as tenants in common. If no beneficiary survives the death of all owners, the security belongs to the estate of the deceased sole owner or the estate of the last to die of all multiple owners.

**§ -8 Protection of registering entity.** (a) A registering entity is not required to offer or to accept a request for security registration in beneficiary form. If a registration in beneficiary form is offered by a registering entity, the owner requesting registration in beneficiary form assents to the protections given to the registering entity by this chapter.

(b) By accepting a request for registration of a security in beneficiary form, the registering entity agrees that the registration will be implemented on death of the deceased owner as provided in this chapter.

(c) A registering entity is discharged from all claims to a security by the estate, creditors, heirs, or devisees of a deceased owner if it registers a transfer of the security in accordance with section -7 and does so in good faith reliance (1) on the registration, (2) on this chapter, and (3) on information provided to it by affidavit of the personal representative of the deceased owner, or by the surviving beneficiary or by the surviving beneficiary’s representatives, or other information available to the registering entity. The protections of this chapter do not extend to a reregistration or payment made after a registering entity has received written notice from any claimant to any interest in the security objecting to implementation of a registration in beneficiary form. No other notice or other information available to the registering entity affects its right to protection under this chapter.

(d) The protection provided by this chapter to the registering entity of a security does not affect the rights of beneficiaries in disputes between themselves and other claimants to ownership of the security transferred or its value or proceeds.

**§ -9 Nontestamentary transfer on death.** (a) A transfer on death resulting from a registration in beneficiary form is effective by reason of the contract regarding the registration between the owner and the registering entity and this chapter and is not testamentary.

(b) This chapter does not limit the rights of creditors of security owners against beneficiaries and other transferees under other laws of this State.

**§ -10 Terms, conditions, and forms for registration.** (a) A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which it will receive requests (1) for registrations in beneficiary form, and (2) for implementation of registrations in beneficiary form, including

requests for cancellation of previously registered transfer-on-death beneficiary designations and requests for reregistration to effect a change of beneficiary. The terms and conditions so established may provide for proving death, avoiding or resolving any problems concerning fractional shares, designating primary and contingent beneficiaries, and substituting a named beneficiary's descendants to take in the place of the named beneficiary in the event of the beneficiary's death. Substitution may be indicated by appending to the name of the primary beneficiary the letters "LDPS", standing for "lineal descendants per stirpes". This designation substitutes a deceased beneficiary's descendants who survive the owner for a beneficiary who fails to so survive, the descendants to be identified and to share in accordance with the law of the beneficiary's domicile at the owner's death governing inheritance by descendants of an intestate. Other forms of identifying beneficiaries who are to take on one or more contingencies, and rules for providing proofs and assurances needed to satisfy reasonable concerns by registering entities regarding conditions and identities relevant to accurate implementation of registrations in beneficiary form, may be contained in a registering entity's terms and conditions.

(b) The following are illustrations of registrations in beneficiary form which a registering entity may authorize:

- (1) Sole owner-sole beneficiary: John S. Brown TOD (or POD) John S. Brown Jr.;
- (2) Multiple owners-sole beneficiary: John S. Brown Mary B. Brown JT TEN TOD John S. Brown Jr.;
- (3) Multiple owners-primary and secondary (substituted) beneficiaries: John S. Brown Mary B. Brown JT TEN TOD John S. Brown Jr. SUB BENE Peter Q. Brown or John S. Brown Mary B. Brown JT TEN TOD John S. Brown Jr. LDPS.

§ -11 **Short title; rules of construction.** (a) This chapter shall be known as and may be cited as the Uniform TOD Security Registration Act.

(b) This chapter shall be liberally construed and applied to promote its underlying purposes and policy and to make uniform the laws with respect to the subject of this chapter among states enacting it.

(c) Unless displaced by the particular provisions of this chapter, the principles of law and equity supplement its provisions.

§ -12 **Application of chapter.** This chapter applies to registrations of securities in beneficiary form made before or after the effective date of this Act, by decedents dying on or after the effective date of this Act."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

A Bill for an Act Relating to the Jurisdiction of the Courts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 571-14, Hawaii Revised Statutes, is amended to read as follows:

**“§571-14 Jurisdiction; adults.** [The] (a) Except as provided in sections 603-21.5 and 604-8, the court shall have exclusive original jurisdiction:

- (1) To try any offense committed against a child by the child’s parent or guardian or by any other person having the child’s legal or physical custody, and any violation of section 707-726, 707-727, 709-902, 709-903, 709-903.5, 709-904, 709-905, 709-906, or 302A-1135, whether or not included in other provisions of this paragraph or paragraph (2).
- (2) To try any adult charged with:
  - (A) Deserting, abandoning, or failing to provide support for any person in violation of law;
  - (B) An offense, other than a felony, against the person of the defendant’s husband or wife;
  - (C) Any violation of an order issued pursuant to chapter 586; or
  - (D) Any violation of an order issued by a family court judge.

In any case within paragraph (1) or (2), the court, in its discretion, may waive its jurisdiction over the offense charged.

- (3) In all proceedings under chapter 580, and in all proceedings under chapter 584.
- (4) In proceedings under chapter 575, the Uniform Desertion and Non-support Act, and under chapter 576B, the Uniform Interstate Family Support Act.
- (5) For commitment of an adult alleged to be mentally defective or mentally ill.
- (6) In all proceedings for support between parent and child or between husband and wife.
- (7) In all proceedings for waiver of jurisdiction over an adult who was a child at the time of an alleged criminal act as provided in section 571-22.
- (8) In all proceedings under chapter 586, Domestic Abuse Protective Orders.
- (9) In all proceedings to appoint a guardian of the person of an adult.
- (10) For the protection of dependent adults under chapter 346, part X.

In any case within paragraph (3), (4), or (6), the attorney general, through the child support enforcement agency, may exercise concurrent jurisdiction as provided in chapter 576E.

**(b) The court shall have concurrent jurisdiction with the district court over violations of sections 707-712, 707-717, 708-822, 708-823, 711-1106, and 711-1106.5 when multiple offenses are charged through complaint or indictment and at least one offense is a violation of an order issued pursuant to chapter 586 or a violation of section 709-906.”**

SECTION 2. Section 603-21.5, Hawaii Revised Statutes, is amended to read as follows:

**“§603-21.5 General.** (a) The several circuit courts shall have jurisdiction, except as otherwise expressly provided by statute, of:

- (1) Criminal offenses cognizable under the laws of the State, committed within their respective circuits or transferred to them for trial by change of venue from some other circuit court;
- (2) Actions for penalties and forfeitures incurred under the laws of the State;
- (3) Civil actions and proceedings, in addition to those listed in sections 603-21.6, 603-21.7, and 603-21.8.

(b) The several circuit courts shall have concurrent jurisdiction with the family court over:

- (1) Any felony under section 571-14, violation of an order issued pursuant to chapter 586, or a violation of section 709-906 when multiple offenses are charged through complaint or indictment and at least one other offense is a criminal offense under subsection (a)(1); and
- (2) Any felony under section 571-14 when multiple offenses are charged through complaint or indictment and at least one other offense is a violation of an order issued pursuant to chapter 586, a violation of section 709-906, or a misdemeanor under the jurisdiction of section 604-8.”

SECTION 3. Section 604-8, Hawaii Revised Statutes, is amended to read as follows:

**“§604-8 Criminal, misdemeanors, generally.** (a) District courts shall have jurisdiction of, and their criminal jurisdiction is limited to, criminal offenses punishable by fine, or by imprisonment not exceeding one year whether with or without fine. They shall not have jurisdiction over any offense for which the accused cannot be held to answer unless on a presentment or indictment of a grand jury.

In any case cognizable by a district court as aforesaid in which the accused has the right to a trial by jury in the first instance, the district court, upon demand by the accused, for such trial by jury, shall not exercise jurisdiction over such case except violations under section 291-4, but shall examine and discharge or commit for trial the accused as provided by law, but if in any such case the accused does not demand a trial by jury on the date of arraignment or within ten days thereafter, the district court may exercise jurisdiction over the same, subject to the right of appeal as provided by law. Trial by jury for violations under section 291-4 may be heard in the district court.

(b) The district court shall have concurrent jurisdiction with the family court of any violation of an order issued pursuant to chapter 586 or any violation of section 709-906 when multiple offenses are charged through complaint or indictment and at least one other offense is a criminal offense within the jurisdiction of the district courts.”

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

## ACT 65

S.B. NO. 2710

A Bill for an Act Relating to Search Warrants.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature recognizes the tremendous importance and utility of anticipatory search warrants in drug investigations, particularly when “dealing with the furtive and transitory activities of persons who traffic in narcotics.” (2 W. La Fave, Search and Seizure, §3.7(c), at 365 (1996).) The legislature finds that the Hawaii supreme court has held that anticipatory search warrants are impermissible under section 803-31, Hawaii Revised Statutes. (State v. Scott, No. 18170, slip op. at 14 (January 8, 1998).) The legislature further finds that the court stated that it was “incumbent upon the legislature to amend HRS §803-31 to provide a legal basis” for anticipatory search warrants.

Accordingly, the purpose of this Act is statutorily to authorize the issuance of anticipatory search warrants.

SECTION 2. Section 803-31, Hawaii Revised Statutes, is amended to read as follows:

**“§803-31 Search warrant; defined.** A search warrant is an order in writing made by a judge or other magistrate, directed to an officer of justice, commanding the officer to search for certain articles supposed to be in the possession of or which are anticipated to be in the possession of one who is charged with having obtained them illegally, or who keeps them illegally, or with the intent of using them as the means of committing a certain offense.”

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

## ACT 66

S.B. NO. 2739

A Bill for an Act Relating to the Collection of Fines.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 231-52, Hawaii Revised Statutes, is amended by amending the definition of “claimant agency” to read as follows:

““Claimant agency” includes any state agency, board, commission, department, institution, the judiciary, or other state organization, or any subdivision thereof. In the case of delinquent child support, “claimant agency” means the child support enforcement agency or an agency under cooperative agreement with the department whenever the department is required by law to enforce a support order on behalf of an individual. “Claimant agency” includes the department of budget and finance when acting on behalf and at the request of the United Student Aid Funds, Inc. to collect defaulted education loan notes incurred under the federal Higher Education Act of 1965 (Public Law 89-329, 79 Stat. 1219), as amended; provided that the department has a contract with the United Student Aid Funds, Inc. under chapter 309 when acting as a claimant agency. “Claimant agency” includes

the department of taxation when acting on behalf and at the request of the Internal Revenue Service under the United States Department of the Treasury, and when the Internal Revenue Service is authorized by federal law to administratively impose a levy upon a refund of a debt or in satisfaction of the federal income taxes assessed under Internal Revenue Code of 1986, as amended.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

ACT 67

S.B. NO. 2769

A Bill for an Act Relating to Irrigation Projects.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 141-1, Hawaii Revised Statutes, is amended to read as follows:

“§141-1 Duties in general. The department of agriculture shall:

- (1) Information and statistics. Gather, compile, and tabulate, from time to time, information and statistics concerning:
  - (A) Entomology and plant pathology. Insects, scales, blights, and diseases injurious, or liable to become injurious, to trees, plants, or other vegetation, and the ways and means of exterminating pests and diseases already in the State and preventing the introduction of those not yet here;
  - (B) General agriculture. Fruits, fibres, and useful or ornamental plants and their introduction, development, care, and manufacture or exportation, with a view to introducing, establishing, and fostering new and valuable plants and industries.
- (2) Cooperation with other organizations. Encourage and cooperate with the agricultural extension service and agricultural experiment station of the University of Hawaii and all private persons and organizations doing work of an experimental or educational character coming within the scope of the subject matter of chapters 141, 142, and 144 to 149A, and avoid, as far as practicable, duplicating the work of those persons and organizations;
- (3) Agreements with other organizations. Enter into contracts, cooperative agreements, or other transactions with any person, agency, or organization, public or private, as may be necessary in the conduct of the department’s business and on such terms as the department may deem appropriate; provided that the department shall not obligate any funds of the State, except the funds that have been appropriated to the department;
- (4) Library. Secure copies of the laws of other states, territories, and countries, and other publications germane to the subject matters of chapters 141, 142, and 144 to 149A, and make laws and publications available for public information and consultation;
- (5) Buildings and apparatus. Provide buildings, grounds, apparatus, and appurtenances necessary for the examination, quarantine, inspection,



and fumigation provided for by chapters 141, 142, and 144 to 149A; for the obtaining, propagation, study, and distribution of beneficial insects, growths, and antidotes for the eradication of insects, blights, scales, or diseases injurious to vegetation of value and for the destruction of injurious vegetation; and for carrying out any other purposes of chapters 141, 142, and 144 to 149A;

- (6) Further legislation. Formulate and recommend to the governor and legislature additional legislation necessary or desirable for carrying out the purposes of chapters 141, 142, and 144 to 149A;
- (7) Annual reports. Publish at the end of each year a report of the expenditures and proceedings of the department and of the results achieved by the department, together with other matters germane to chapters 141, 142, and 144 to 149A, and which the department may deem proper;
- (8) Planning and development. Administer a program of agricultural planning and development, including the formulation and implementation of general and special plans, including but not limited to the functional plan for agriculture; administer the planning, development, and management of the agricultural park [projects;] program; plan, construct, operate, and maintain the state irrigation water systems; review, interpret, and make recommendations with respect to public policies and actions relating to agricultural land and water use; assist in research, evaluation, development, enhancement, and expansion of local agricultural industries; and serve as liaison with other public agencies and private organizations for the above purposes. In the foregoing, the department of agriculture shall act to conserve and protect agricultural lands[,] and irrigation water systems, promote diversified agriculture, increase agricultural self-sufficiency, and ensure the availability of agriculturally suitable lands.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

## ACT 68

S.B. NO. 2796

A Bill for an Act Relating to Robbery in the First Degree.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 708-840, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of robbery in the first degree if, in the course of committing theft:

- (a) The person attempts to kill another, or intentionally or knowingly inflicts or attempts to inflict serious bodily injury upon another; or
- (b) The person is armed with a dangerous instrument and:
  - (i) The person uses force against the person of anyone present with intent to overcome that person’s physical resistance or physical power of resistance; or

- (ii) The person threatens the imminent use of force against the person of anyone who is present with intent to compel acquiescence to the taking of or escaping with the property.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

ACT 69

S.B. NO. 2819

A Bill for an Act Relating to Escrow Depositories.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 449-17, Hawaii Revised Statutes, is amended to read as follows:

“**§449-17 Revocation and suspension of licenses.** The commissioner may revoke any license issued hereunder, or suspend the right of the licensee to use the license, for any of the following causes:

- (1) Making any misrepresentation concerning any escrow transaction;
- (2) Making any false promises concerning any escrow transaction of a character likely to mislead another;
- (3) Pursuing a continued and flagrant course of misrepresentation, or making of false promises, through advertising or otherwise;
- (4) Without first having obtained the written consent so to do of both parties involved in any escrow transaction, acting for both parties in connection with such transaction, or collecting or attempting to collect commissions or other compensation for its services from both of the parties;
- (5) Failing, within a reasonable time, to account for any moneys belonging to others which may be in the possession or under the control of the licensee;
- (6) Any other conduct constituting fraudulent or dishonest dealings;
- (7) Violating any of the provisions of this chapter or the rules [and regulations] promulgated pursuant thereto;
- (8) Splitting fees with or otherwise compensating others not licensed hereunder for referring business;
- (9) Commingling the moneys or other property of others with its own[.];
- (10) Engaging in an unsafe or unsound practice that is likely to cause insolvency or substantial dissipation of assets or earnings of the licensee;
- (11) Failing to maintain books and records that are sufficiently complete and accurate so as to permit the commissioner to determine the financial condition of the licensee; and
- (12) Ceasing, for a period of six consecutive months or more, to engage in the business for which its license was granted.

No [licensee] license shall be suspended for longer than [two] five years and no corporation whose license has been revoked shall be eligible to apply for a new license until the expiration of [two] five years.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

## ACT 70

S.B. NO. 2828

A Bill for an Act Relating to Pharmacies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 461-12, Hawaii Revised Statutes, is amended to read as follows:

“**§461-12 Adequate equipment.** [Every pharmacy compounding] A pharmacy that compounds drugs shall be equipped with [proper] adequate pharmaceutical [utensils so that the prescriptions can be properly compounded.] equipment to ensure the proper compounding of prescriptions. The board shall by rules prescribe the minimum of professional and technical equipment [which] and reference materials that a pharmacy shall at all times possess[, and the list shall include copies of the latest revisions of the United States Pharmacopoeia National Formulary, and all supplements].”

SECTION 2. Section 461-13, Hawaii Revised Statutes, is amended to read as follows:

“**§461-13 Prescription record.** [Every pharmacy shall keep a suitable book or file, or a microfilm of such book or file, in which shall be preserved, for a period of not less than five years, every prescription compounded or dispensed at the pharmacy. The book, file, or microfilm of prescriptions] A pharmacy shall keep prescription records of each prescription compounded or dispensed at the pharmacy for a period of not less than five years. The prescription records shall at all times be open to inspection by the board of pharmacy and other law enforcement officers.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

## ACT 71

S.B. NO. 2839

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431:2-306, Hawaii Revised Statutes, is amended to read as follows:

**“§431:2-306 Examination expense.** (a) Examinations of:

- (1) Any insurer;
- (2) Any person subject to examination under section 431:2-303(2); or
- (3) Any insurance guaranty fund established pursuant to article 16;

shall be at the expense of the insurer, person, or guaranty fund examined. Examination expenses shall include fees, mileage, and expenses incurred as to witnesses or any other person, as defined in article 1, subject to an examination by the commissioner.

(b) The insurer, person, or guaranty fund examined and liable therefor shall pay to the commissioner’s examiners upon presentation of an itemized statement, their actual travel expenses, their reasonable living expense allowance, and their per diem compensation at a reasonable rate approved by the commissioner, incurred on account of the examination. All payments collected by the commissioner shall be remitted to:

- (1) The general fund of the State;
- (2) The insurance examiner’s revolving fund if independent contractor examiners were employed for the examination; or
- (3) The captive insurance administrative fund if independent contractor examiners or captive staff examiners were employed for a captive insurer’s examination.

The commissioner or the commissioner’s examiners shall not receive or accept any additional emolument on account of any examination.

(c) The commissioner may assess all examination costs of any person subject to examination under section 431:2-303(1) and article 16 when there is a premium trust fund shortage due to substantial noncompliance with section 431:9-230. The commissioner, subject to chapter 91, shall adopt rules to carry out the purposes of this subsection. The rules shall include criteria for the levying of examination assessment costs and specific criteria for appealing assessment costs levied by the commissioner.”

SECTION 2. Section 431:3-402, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every domestic insurer, on or before each March [15] 1 (the “filing date”), shall prepare and submit to the commissioner a report of its risk-based capital levels as of the end of the calendar year just ended, in a form and containing any information that is required by the risk-based capital instructions. In addition, every domestic insurer shall file its risk-based capital report:

- (1) With the National Association of Insurance Commissioners in accordance with the risk-based capital instructions; and
- (2) With the insurance commissioner in any state in which the insurer is authorized to do business, if the commissioner has notified the insurer of its request in writing, in which case the insurer shall file its risk-based capital report not later than the later of:
  - (A) Fifteen days from the receipt of notice to file its risk-based capital report with that state; or
  - (B) The filing date.”

SECTION 3. Section 431:14-120, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The commissioner shall review filings as soon as reasonably possible after they have been made to determine whether they meet the requirements of this article. [The] When all the requirements of this article are met, the commissioner shall hold public hearings on workers’ compensation rate filings that result in increases or decreases. The public hearing notice shall be mailed to the insurer,

rating organization, or advisory organization that made the filing and filed with the office of the lieutenant governor at least six calendar days before the hearing. The public hearing notice requirement shall be exempt from section 92-41.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

## ACT 72

S.B. NO. 2840

A Bill for an Act Relating to Captive Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431:19-107, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) Each association captive and risk retention captive shall annually file with the commissioner [an annual statement on or before March 1 each year, using the National Association of Insurance Commissioners’ annual statement blank plus any additional information required by the commissioner, which shall be a true statement of its financial condition, transactions, and affairs as of the immediately preceding December 31. In addition to the annual statement, annually on or before June 1, or such later date as the commissioner upon request or for cause may specify, each association captive and risk retention captive shall file an audit by a designated independent certified public accountant or accounting firm of the financial statements reporting the financial condition and results of the operation of the captive. The annual statement and audit shall be prepared in accordance with the National Association of Insurance Commissioners’ annual statement instructions, following the practices and procedures prescribed by the National Association of Insurance Commissioners’ practices and procedures manuals. The reported information shall be verified by oaths of at least two of the captive’s principal officers. Each risk retention group shall also comply with section 431:3-302.] the following:

(1) Annual statement and audit:

- (A) On or before March 1, or such day subsequent thereto as the commissioner upon request and for cause may specify, an annual statement using the National Association of Insurance Commissioners’ annual statement blank plus any additional information required by the commissioner, which shall be a true statement of its financial condition, transactions, and affairs as of the immediately preceding December 31. The reported information shall be verified by oaths of at least two of the captive’s principal officers;
- (B) On or before June 1, or such day subsequent thereto as the commissioner upon request and for cause may specify, an audit by a designated independent certified public accountant or accounting firm of the financial statements reporting the financial condition and results of the operation of the captive;
- (C) The annual statement and audit shall be prepared in accordance with the National Association of Insurance Commissioners’ annual statement instructions, following the practice and procedures prescribed by the National Association of Insurance Com-

missioners' practices and procedures manuals. Each risk retention group shall also comply with section 431:3-302; and

(2) On or before each March 1, or such day subsequent thereto as the commissioner upon request and for cause may specify, a risk-based capital report in accordance with section 431:3-402.

(c) The statements required to be filed in subsections (a) and (b) shall include, but not be limited to, actuarially appropriate reserves for:

- (1) Known claims and expenses associated therewith;
- (2) Claims incurred but not reported and expenses associated therewith;
- (3) Unearned premiums; and
- (4) Bad debts, reserves for which shall be shown as liabilities.

An actuarial opinion regarding reserves for known claims and expenses associated therewith and claims incurred but not reported and expenses associated therewith shall be included in the audited statements[.], except that the actuarial opinion for association captive insurance companies and risk retention captive insurance companies shall be filed with the annual statement required under subsection (b), on or before March 1 each year. The actuarial opinion shall be given by a member of the American Academy of Actuaries or other qualified loss reserve specialist as defined in the annual statement adopted by the National Association of Insurance Commissioners.’’

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

**ACT 73**

S.B. NO. 2844

A Bill for an Act Relating to Issuance of Utility Voting Stock.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 269-17.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) No more than twenty-five per cent of the issued and outstanding voting stock of a corporation organized under the laws of the State and who owns, controls, operates, or manages any plant or equipment, or any part thereof, [for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil for the public use, either directly or indirectly and is therefore] as a public utility within the definition set forth in section 269-1 shall be held, whether directly or indirectly, by any single foreign corporation or any single nonresident alien, or held by any person, unless prior written approval is obtained from the public utilities commission, or unless a transaction is exempt. An exempt transaction is:

- (1) Any purchase or sale by an underwriter; or
- (2) A transaction to acquire shares of a corporation with less than one hundred shareholders and less than \$1,000,000 [dollars] in assets.

Every assignment, transfer, contract, or agreement for assignment or transfer of any shares in violation of this section shall be void and of no effect; and no such transfer shall be made on the books of the corporation. Nothing herein shall be construed to

make illegal the holding of stock lawfully held, directly or indirectly, prior to June 4, 1977.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

## ACT 74

S.B. NO. 2903

A Bill for an Act Relating to the State Commission on the Status of Women.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 367-2, Hawaii Revised Statutes, is amended to read as follows:

“**§367-2 State commission on status of women: membership.** (a) There is created a temporary state commission on the status of women for a special purpose within the office of the lieutenant governor for administrative purposes.

(b) The commission shall consist of thirteen members, which shall include:

(1) Ex officio[.] ~~nonvoting members~~ the superintendent of education, the president of the University of Hawaii, the director of labor and industrial relations, the director of human resources development, the director of human services, and the director of health[;], or their respective designated representative; and

(2) The remaining seven members shall be appointed by the governor in accordance with section 26-34[.], and shall serve as voting members.

(c) Of the appointed seven members there shall be one member from each of the counties of Hawaii, Maui, and Kauai, and four members from Oahu.

(d) The members shall be selected on the basis of their interests and knowledge in, and their ability to make contributions to, the solution of problems relating to the status of women. The chairperson shall be elected annually from the [nongovernmental] seven appointed members of the commission [as defined in subsection (b)(2)].

(e) A quorum to do business or to validate any act of the commission shall consist of a majority of the seven appointed members of the commission.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

A Bill for an Act Relating to Liquor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that local brewpubs find themselves stifled by unreasonably low limits on beer production. Although brewpub owners seek to improve the State’s faltering economy by employing local people and using local products, they are prevented from expanding their businesses because existing law prohibits them from increasing production beyond 5,000 barrels per year. This is especially a problem for a company that manufactures bottled beer that wishes to open a brewpub as well.

The purpose of this Act is to remove regulatory barriers adversely impacting local brewpubs and to allow for increased economic development in our State by raising the production limit for brewpubs from 5,000 to 10,000 barrels annually.

SECTION 2. Section 281-31, Hawaii Revised Statutes, is amended by amending subsection (o) to read as follows:

- “(o) Class 14. Brewpub licenses. A brewpub licensee:
  - (1) Shall manufacture not more than [five] ten thousand barrels of malt beverages on the licensee’s premises during the license year;
  - (2) May sell malt beverages manufactured on the licensee’s premises for consumption on the premises;
  - (3) May sell malt beverages manufactured by the licensee in brewery-sealed packages to class 3, wholesale dealer licensees pursuant to conditions imposed by county planning and public works departments;
  - (4) May sell intoxicating liquor, purchased from a class 1, manufacturer licensee, or a class 3, wholesale dealer’s licensee, to consumers for consumption on the licensee’s premises; provided that the premises is owned and operated by the licensee.

The categories of establishments shall be as follows:

- (A) A standard bar; or
- (B) Premises in which live entertainment or recorded music is provided. Facilities for dancing by the patrons may be permitted as provided by commission rules.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

A Bill for an Act Relating to Risk Retention.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431K-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:



“(a) A purchasing group located in this State may not purchase insurance from a risk retention group that is not chartered in this State or from an insurer not authorized in this State, unless the purchase is effected through a licensed agent or broker acting pursuant to the surplus lines laws [set forth in chapter 431, article 8.] of the licensed agent’s or broker’s state of domicile.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

## ACT 77

S.B. NO. 3126

A Bill for an Act Relating to Motor Carriers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 271-16, Hawaii Revised Statutes, is amended to read as follows:

“**§271-16 Temporary authority.** (a) To enable the provision of service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting the need, the public utilities commission may, in its discretion and without hearings or other proceedings, grant temporary authority for [such] service by a common carrier or a contract carrier by motor vehicle, as the case may be. The temporary authority, unless suspended or revoked for good cause, shall be valid for [such] the time [as] that the commission shall specify, but for no more than a period of [one hundred twenty] one-hundred-twenty days for any one immediate and urgent need; provided that if an application for a certificate of public convenience and necessity or a permit seeking corresponding permanent authority is filed in accordance with applicable laws, regulations and instructions not later than thirty days after the issuance of temporary authority, then in that event, the commission may determine upon its own motion, or upon motion or upon request by any interested party, whether any temporary operating authority granted under this section shall be continued in force beyond the expiration date specified therein, and until the determination of the application filed by the holder of the temporary operating authority for a certificate of public convenience and necessity or a permit to engage in operations authorized by the temporary operating authority.

(b) Every application for temporary authority shall be made in writing to the commission and verified under oath. The application shall:

- (1) Be accompanied by proof of service upon every current holder of a certificate of public convenience and necessity in the classification for which temporary authority is applied; and
- (2) Contain information that the commission shall by rule require.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 29, 1998.)

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the epidemiological figures for mental health care needs in Hawaii, the health care State, are approximately those of the mainland. The 1994 Coopers and Lybrand actuarial report to the legislature documented mental health needs as affecting four per cent of the population covered by private indemnity plans, and substance abuse needs as affecting two and one-half per cent of that population. The 1996 Coopers and Lybrand actuarial report to the United States Congress documented mental health needs as affecting three and two-tenths per cent of the general population and substance abuse needs as affecting three and six-tenths per cent of that population.

The legislature finds that treatment costs for mental illnesses are comparable to those for other medical illnesses. For example, according to a 1993 report by the National Advisory Mental Health Council, the total cost of medical treatment and productivity loss for patients with cardiovascular disease in 1990 was \$160,000,000,000 compared to \$148,000,000,000 for mental illnesses. The same cost for patients with severe diabetes was \$25,000,000,000 compared to \$33,000,000,000 for patients with schizophrenia.

Serious mental illnesses can also be treated as effectively as other medical illnesses. For example, the treatment efficacy rate—measuring the proportion of patients who improved with treatment—for cardiovascular patients was forty-one per cent for angioplasty patients and fifty-two per cent for atherectomy patients compared to sixty per cent for schizophrenia patients, sixty-five per cent for patients with serious depression, and eighty per cent for patients with bipolar disorders.

Although treatment costs and efficacy rates for mental illnesses are comparable to those of other medical illnesses, private sector health insurance coverage for mental illnesses is not comparable to that for other medical illnesses. The legislature finds that inadequate treatment of mental illness increases health costs, economic costs, and human costs that are borne by patients, families, and the entire nation. The cost to the nation in 1990 in lost productivity stemming from workers struggling with the effects of untreated mental disorders was a staggering \$63,100,000,000. Because treatment for mental illnesses is effective, productivity increases dramatically with treatment.

These facts are not lost on corporate America. Many large corporations have restructured their mental health benefits to encourage the use of more outpatient benefits and to provide a continuum of mental health care to boost productivity while simultaneously saving mental health dollars. For example, in 1989, BellSouth adopted a mental health benefit that encouraged employees to receive care in the least restrictive setting. BellSouth's bill for mental health dropped \$6,000,000 in the following three years. McDonnell Douglas has also used a mental health benefit with no constraints on the type of treatment since 1989. In the first year of this benefit, the company saw a fifty per cent decrease in psychiatric inpatient admission costs, and per capita mental health costs declined by thirty-four per cent. In one year, Chevron saw a twenty-one per cent decrease in psychiatric hospital admission costs because the company implemented a provider network that covered intermediary services and encouraged outpatient care. First National Bank of Chicago saved thirty per cent in mental health and substance abuse costs over four years as a result of implementing a mental health benefit that expanded the range of services covered and reimbursed outpatient costs at eighty-five per cent. Between 1989 and 1992, the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)

expanded its yearly outpatient psychiatric care expenditures from \$81,000,000 to \$103,000,000. This decision to devote an additional \$22,000,000 to outpatient care resulted in a net savings of \$200,000,000 (a savings of nearly tenfold) because of reduced psychiatric hospitalization.

The legislature finds that the mandated mental health benefits under chapter 431M, Hawaii Revised Statutes, favor the more costly inpatient benefits, which are driving up Hawaii health care costs. The purpose of this Act is to increase mental health outpatient benefits.

SECTION 2. Section 431M-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The covered benefit under this chapter shall not be less than thirty days of in-hospital services per year. Each day of in-hospital services may be exchanged for two days of nonhospital residential services, two days of partial hospitalization services, or two days of day treatment services. Visits to a physician, psychologist, clinical social worker, or advanced practice registered nurse with a psychiatric or mental health specialty or subspecialty shall not be less than thirty visits per year to hospital or nonhospital facilities or to mental health outpatient facilities for day treatment or partial hospitalization services. Each day of in-hospital services may also be exchanged for two outpatient visits under this chapter; provided that the patient’s condition is such that [hospitalization would become imminent if outpatient services were interrupted and] the outpatient services would reasonably preclude hospitalization. The total covered benefit for outpatient services [under this chapter] in subsections (b) and (c) shall not be less than [twelve] twenty-four visits per year[. The covered benefit under this chapter shall apply to any of the services in subsection (b) or (c).]; provided that coverage of twelve of the twenty-four outpatient visits shall apply only to the services under subsection (c). The other covered benefits under this chapter shall apply to any of the services in subsection (b) or (c). In the case of alcohol and drug dependence benefits, the insurance policy may limit the number of treatment episodes but may not limit the number to less than two treatment episodes per lifetime.”

SECTION 3. Act 202, Session Laws of Hawaii 1998<sup>1</sup>, as amended by Act 111, Session Laws of Hawaii 1994, is amended by amending section 3 to read as follows:

“SECTION 3. This Act shall take effect on July 1, 1989; provided that insurance or health or service plan contracts shall be amended to reflect the provisions required under this Act at the first anniversary date following the effective date, but no later than July 1, 1990; provided further that section -6 shall take effect upon the approval of this Act; and provided further that this Act shall be repealed on July 1, [1998.] 2002.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 19, 1998.)

#### Note

1. Should probably be “1988”.

A Bill for an Act Making an Emergency Appropriation for Emergency Medical Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act is recommended by the Governor for immediate passage in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

SECTION 2. Although funds were appropriated for emergency medical services for the fiscal period beginning July 1, 1997 and ending June 30, 1998, a critical funding emergency now exists. Additional funding is needed for the payment of goods and services related to the conduct and delivery of emergency ambulance services within the County of Maui.

An operating shortfall of \$292,180 is anticipated for the 1998 Maui County emergency ambulance contract. The competitive bid procurement of Maui County emergency ambulance services beginning January 1, 1998 will need additional funding to maintain the current level of services to include seven ambulance units on the island of Maui, one on Molokai, and one on Lanai.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$292,180, or so much thereof as may be necessary, for fiscal year 1997-1998 to maintain the current level of emergency ambulance services on the islands of Maui, Lanai, and Molokai. The sum appropriated shall be expended by the department of health.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 19, 1998.)

A Bill for an Act Making an Emergency Appropriation for the Hawaii Health Systems Corporation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

SECTION 2. The legislature did not appropriate any general funds for the operation of community hospitals for the fiscal period beginning July 1, 1995, and ending June 30, 1997. The legislature did appropriate \$12,000,000 of emergency funding for the fiscal year ending June 30, 1997, from an original request of \$21,000,000. The legislature also appropriated \$8,000,000 in general funds from an original request of \$15,500,000 for the fiscal year ending June 30, 1998.

A critical funding emergency continues to exist. The program will expend all special funds before the end of the fiscal year and will be unable to meet its fiscal obligation to provide services to members of the general public who need hospital-based services provided by the community hospital system. The Hawaii health

systems corporation has achieved millions of dollars in cost reductions in the community hospitals but has not been able to completely eliminate the deficit incurred while maintaining levels of services, including uncompensated care and mandated services. No cost saving changes were made by Act 262, Session Laws of Hawaii 1996, to the personnel system, which constitutes a large proportion of the expenditures of the community hospitals.

The purpose of this Act is to appropriate an additional \$5,000,000 in general funds for fiscal year 1998 to prevent the reduction or discontinuance of services provided by the community hospitals.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$5,000,000 or so much thereof as may be necessary for fiscal year 1997-1998 to carry out the purposes set forth in Act 262, Session Laws of Hawaii 1996.

SECTION 4. The sum appropriated shall be expended by the Hawaii health systems corporation.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 19, 1998.)

## ACT 81

H.B. NO. 2358

A Bill for an Act Relating to Child Passenger Restraint Systems.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Findings and purpose. The legislature finds that the overall rate of observed use of child passenger restraint systems for infants and toddlers in Hawaii is low and declining, contributing to deaths from motor vehicle crashes among Hawaii keiki. Riding unbuckled is a major risk factor in injuries and deaths from motor vehicle crashes among children under the age of four. According to a study released in May 1997 by the department of transportation, the overall rate of observed use of child passenger restraint systems on Oahu is thirty-one per cent. This represents a twenty-eight per cent decline since 1993 and is less than half of the national average of sixty-five per cent. Baseline observational studies in 1996 and 1997 show that overall use rates in Kauai (forty-two per cent) and Maui (fifty-four per cent) are also low compared to the national average.

The legislature also finds that the rate of improper use of child passenger restraint systems is very high, increasing the scope of Hawaii's child passenger restraint problem. When child passenger restraint systems are correctly installed, the risk of child death from motor vehicle crashes is reduced by sixty-nine per cent for infants and by forty-seven per cent for toddlers. However, it is estimated nationally that four out of five child passenger restraint systems are used incorrectly. In Hawaii, rates of incorrect use may be even higher. Of the two hundred child passenger restraint systems examined by child passenger restraint specialists in 1997, only two were found to have been correctly installed and used.

The legislature further finds that the current penalty for violating Hawaii's child passenger restraint law, and its enforcement, has not been effective in increasing compliance or in serving to educate violators on the importance of using child passenger restraint systems and on their proper installation. Proper installation is, unfortunately, complicated and until car manufacturers come up with a simple

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uniform procedure, many people need hands-on education to install their child passenger restraint systems correctly. The legislature also recognizes that the division of driver education of the district court of the first circuit, through its traffic safety classes, has the capacity to educate first-time violators of Hawaii's child passenger restraint law, on the importance of using them and installing them correctly.

The purpose of this Act is to increase compliance with Hawaii's child passenger restraint law, as well as to increase the proper use of restraint systems among Hawaii's infants and toddlers, by requiring first-time offense violators to attend a child passenger restraint safety class.

SECTION 2. Section 286G-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A driver education assessment of \$7 shall be levied on a finding that a violation of a statute or county ordinance relating to vehicles or their drivers or owners occurred, except for:

- (1) Offenses relating to stopping (when prohibited), standing, or parking;
- (2) Offenses relating to registration; and
- (3) Offenses by pedestrians.

In addition, a driver education assessment of \$100 shall be levied on persons convicted under section 291-4 to defray costs of services provided by the driver education and training program[.]; and \$50 shall be levied on persons required to attend a child passenger restraint system safety class under section 291-11.5.”

SECTION 3. Section 291-11.5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) [Any person violating] Violation of this section shall be [guilty of a violation] considered an offense as defined under section 701-107(5) and shall subject the violator to the following penalties [of section 291C-161(b).]:

- (1) For a first conviction, the person shall:
  - (A) Be fined not more than \$100;
  - (B) Be required by the court to attend a child passenger restraint system safety class conducted by the division of driver education; provided that:
    - (i) The class may include video conferences as determined by the administrator of the division of driver education as an alternative method of education; and
    - (ii) The class shall not exceed four hours; and
  - (C) Pay a \$50 driver education assessment as provided in section 286G-3;
- (2) For a conviction of a second offense, the person shall:
  - (A) Be fined not more than \$200;
  - (B) Be required by the court to attend a child passenger restraint system safety class not to exceed four hours in length conducted by the division of driver education if the person has not previously attended such a class; and
  - (C) Pay a \$50 driver education assessment as provided in section 286G-3 if the person has not previously attended a child passenger system safety class conducted by the division of driver education; and
- (3) For a conviction of a third or subsequent offense, the person shall:
  - (A) Be fined not more than \$500;

- (B) Be required by the court to attend a child passenger restraint system safety class not to exceed four hours in length conducted by the division of driver education if the person has not previously attended such a class; and
- (C) Pay a \$50 driver education assessment as provided in section 286G-3 if the person has not previously attended a child passenger system safety class conducted by the division of driver education.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 20, 1998.)

## ACT 82

H.B. NO. 2774

A Bill for an Act Relating to the Uniform Information Practices Act (Modified).

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 92F, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§92F- Notice to the office of information practices.** When filing a civil action that is under, related to, or is affected by this chapter, a person shall notify the office of information practices in writing at the time of the filing. The office of information practices may intervene in the action.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved May 26, 1998.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 83

H.B. NO. 2780

A Bill for an Act Relating to Child Support Enforcement.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 189-2, Hawaii Revised Statutes, is amended to read as follows:

“**§189-2 Commercial marine license.** (a) No person shall take marine life for commercial purposes whether the marine life is caught or taken within or outside of the State, without first obtaining a commercial marine license as provided in this section. Additionally, any person providing vessel charter services in the State for the taking of marine life in or outside of the State shall obtain a commercial marine

license. The department of land and natural resources may adopt rules pursuant to chapter 91 necessary for the purpose of this chapter and to set fees for commercial marine licensing.

(b) All licenses issued under this section shall be in force one year from the date of issuance. Duplicate licenses may be issued to any person upon affidavit that the license was lost, and upon payment of a duplicate license fee. The fees for commercial marine licenses and duplicate commercial marine licenses shall be established by the department by rules adopted in accordance with chapter 91. The department shall set the fees in an amount that, when combined with the fees provided for in sections 188-37 and 188-50, shall be reasonably necessary to supplement the funding for:

- (1) Enforcement of this section and chapter 188; and
- (2) The activities set forth in section 187A-11.

Anyone who qualifies as a "trainee" under rules prescribed by the department shall have the fee waived for a period of not more than one hundred eighty calendar days from the date on which the license is issued.

(c) The department shall suspend, shall refuse to renew, reinstate, or restore, or shall deny any license issued under this section if the department has received certification from the child support enforcement agency pursuant to section 576D-13 that the licensee or applicant is not in compliance with an order of support or has failed to comply with a subpoena or warrant relating to a paternity or child support proceeding. The department shall issue, renew, reinstate, or restore such a license only upon receipt of authorization from the child support enforcement agency, the office of child support hearings, or the family court."

SECTION 2. Section 346-37.1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any payment of public assistance money made to or for the benefit of any dependent child or children creates a debt due and owing to the department by the natural or adoptive parent or parents who are responsible for support of such children in an amount equal to the amount of public assistance money so paid or as established pursuant to subsection (b), except that debts under this section shall not be incurred by [nor at any time be collected from] a parent or other person who is the recipient of public assistance moneys for the benefit of minor dependent children for the period such person or persons are in such status, and, provided that where there has been a family court order, the debt shall be limited to the amount provided for by the order."

SECTION 3. Section 576D-1, Hawaii Revised Statutes, is amended by amending the definition of "compliance with an order of support" to read as follows:

""Compliance with an order of support" means that an obligor:

- (1) Is not delinquent in payments in an amount equal to or greater than the sum of payments for [current] child support and spousal support when ordered in conjunction with child support for a three-month period with regard to driver's licenses and recreational licenses and a six-month period with regard to professional and vocational licenses;
- (2) Is not delinquent in making periodic payments on a support arrearage pursuant to a written agreement with the child support enforcement agency under section 576D-13(d); or
- (3) Has obtained or maintained health insurance coverage as required by a child support order."



SECTION 4. Section 576D-13, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§576D-13]]~~ **Suspension or denial of licenses.** (a) Upon a determination that an obligor is not in compliance with an order of support as defined in section 576D-1 or that an individual failed to comply with a subpoena or warrant relating to a paternity or child support proceeding, and that the obligor or individual is the holder of or an applicant for a license issued by a licensing authority in this State, the agency shall serve notice upon the obligor or individual of the agency’s intent to certify the obligor or individual as noncompliant with an order of support or a subpoena or warrant relating to a paternity or child support proceeding, which shall direct the appropriate licensing authority to deny or suspend the license, or to deny the application for renewal, reinstatement, or restoration of such license.

(b) The notice shall be sent by regular mail to both the last known address of record of the obligor or individual as shown in the records of the licensing authority and the address of record of the obligor or individual as shown in the agency’s child support record [and]. For purposes of this section, the date of service means two days following the date of mailing. The notice shall contain the following information:

- (1) Identification of the license, certificate, permit, or registration subject to suspension, nonrenewal, nonreinstatement, nonrestoration, or denial;
  - (2) The name, social security number, if available, date of birth, if known, and each applicable child support case number or numbers of the obligor or individual;
  - (3) The amount of the arrears, the amount of the monthly child support obligation, and reference to the support order upon which the support amount and arrears are based or the subpoena or warrant that the individual has failed to comply with;
  - (4) A statement that the obligor or individual may contest the suspension, nonrenewal, nonreinstatement, nonrestoration, or denial of a license by requesting a hearing in writing [which shall be received by the agency] within thirty days of the date of service of the notice of intent to suspend, not renew, not reinstate, not restore, or deny the license;
  - (5) A statement that the obligor may contact the agency in writing within thirty days of [receiving] the date of service of the notice and enter into a monthly payment agreement for the arrears owed, and if an agreement is entered into within thirty days of making contact with the agency, the agency shall not pursue the suspension, nonrenewal, nonreinstatement, nonrestoration, or denial of the license;
  - (6) A statement that an individual not in compliance with a subpoena or warrant relating to a paternity or child support proceeding may contact the agency in writing within thirty days [after receiving] of the date of service of the notice and enter into an agreement to provide the information or appear at the proceedings, and if so, the agency shall not pursue the suspension, nonrenewal, nonreinstatement, nonrestoration, or denial of the license; and
  - (7) A statement that if the obligor or individual makes a timely request as specified in paragraph (4), the agency shall stay the action until a decision is made.
- (c) If the obligor or individual:
- (1) Fails to contact the agency in writing within thirty days of the date of service of the notice;

- (2) Is not in compliance with an order of support or failed to comply with a subpoena or warrant relating to a paternity or child support proceeding, and does not timely enter into an agreement under subsection (d); or
- (3) If the office issues a decision that the obligor or an individual is not in compliance with an order of support or has failed to comply with a subpoena or warrant relating to a paternity or child support proceeding, the agency shall certify in writing to the licensing authority that the obligor is not in compliance with an order of support or that the individual is not in compliance with a subpoena or warrant relating to a paternity or child support proceeding, and shall authorize the immediate suspension, nonrenewal, nonreinstatement, nonrestoration, or denial of any license held or applied for by the obligor or individual. The agency shall provide a copy of the certification to the obligor or individual. Upon receipt of the certification, the licensing authority shall suspend any license that the obligor or individual holds or deny any license for which the obligor or individual applies without further review or hearing concerning the suspension, nonrenewal, nonreinstatement, nonrestoration, or denial. Notwithstanding the provisions of any other law setting terms of suspension, revocation, denial, termination, or renewal, reinstatement, or restoration of a license, a certification issued by the agency suspending, not renewing, not reinstating, not restoring, or denying a license shall be implemented by the licensing authority and continue in effect until the licensing authority receives a written release of suspension or denial from the agency, the office of child support hearings, or the family court.

(d) The obligor may enter into a payment agreement with the agency if the obligor makes contact with the agency within thirty days of the date of service of the notice, or the individual may enter into an agreement to provide the information requested in the subpoena or appear at the proceeding required by the warrant.

(e) If the obligor or the individual requests an administrative hearing in writing within thirty days of the date of service of the notice as provided in subsection (b), the office shall schedule a hearing to determine whether the obligor is not in compliance with a support order or whether the individual is not in compliance with a subpoena or warrant relating to a paternity or child support proceeding. The hearing shall be conducted in accordance with chapters 91 and 576E. The issues before the hearings officer shall be limited to whether the obligor is in compliance with an order of support or whether the individual is in compliance with a subpoena or warrant relating to a paternity or child support proceeding. The hearings officer shall issue a written decision within ten days of the hearing. If the hearings officer decides that the obligor is not in compliance with a support order or that the individual is not in compliance with a subpoena or warrant relating to a paternity or child support proceeding, the license held or applied for by the obligor or individual shall be denied or suspended and shall not be renewed, reinstated, or restored.

(f) The decision of the hearings officer shall be final and shall be subject to judicial review as provided in chapter 91. Any suspension or denial under this section shall not be stayed pending judicial review.

[(g) In the event that an obligor or individual holds more than one license, any determination regarding suspension or denial of one license is sufficient to suspend or deny any other license within a thirty-day period after the first certification of suspension, nonrenewal, nonreinstatement, nonrestoration, or denial.

(h)] (g) When the conditions which resulted in the suspension, nonrenewal, nonreinstatement, nonrestoration, or denial no longer exist, the agency shall provide the obligor or individual with written confirmation that the obligor is in compliance with the order of support or that the individual is in compliance with the subpoena or

warrant relating to a paternity or child support proceeding, and the agency, office, or the family court shall issue an authorization canceling the certification in writing to the licensing authority.

[(i)] (h) If a license is suspended or denied under this section, any funds paid by the obligor or individual to the licensing authority shall not be refunded by the licensing authority, and the licensing authority may charge a fee for reinstating or restoring a license. The licensing authority may also charge the obligor or individual a reasonable fee to cover the administrative costs incurred by the licensing authority in complying with this section.

[(j)] (i) The agency shall adopt rules necessary for the implementation and administration of this section. The licensing authority shall adopt rules necessary for the implementation and administration of this section.”

SECTION 5. Section 576D-14, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) If the obligor who receives income on a periodic basis becomes delinquent in making payments under a support order in an amount at least equal to the support payable for one month, the agency shall issue an income withholding order that shall include an amount to be paid [for current support and] towards the delinquency. The order shall be served upon the employer by certified mail or personal service, or transmitted to the employer through electronic means.”

SECTION 6. Section 576D-14, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Upon sending the order of income withholding to the employer, the agency shall send a notice of the withholding by regular mail to each obligor to whom subsections (b) and (c) apply. The notice shall inform the obligor:

- (1) That the withholding has commenced;
- (2) That the obligor may request a hearing in writing within fourteen days of the date of the notice;
- (3) That, unless the obligor files a written request for a hearing within fourteen days of the date of the notice, the money received from the income withholding will be distributed to the custodial parent or, in an interstate case, the obligee in the other jurisdiction, or in the case where the children are receiving public assistance, to the State;
- (4) That the only defense to income withholding is mistake of fact; and
- (5) Of the information that was provided to the employer with respect to the employer’s duties pursuant to section 576E-16.”

SECTION 7. Section 576E-1, Hawaii Revised Statutes, is amended by amending the definition of “compliance with an order of support” to read as follows:

- ““Compliance with an order of support” means that an obligor:
- (1) Is not delinquent in payments in an amount equal to or greater than the sum of payments which would become due for [current] child support, and spousal support when ordered in conjunction with child support, for a three-month period with regard to driver’s and recreational licenses and for a six-month period with regard to professional and vocational licenses;

- (2) Is not delinquent in making periodic payments on a support arrearage pursuant to a written agreement with the child support enforcement agency under section 576D-13(d); or
- (3) Has obtained or maintained health insurance coverage as required by a child support order.”

SECTION 8. Section 576E-2, Hawaii Revised Statutes, is amended to read as follows:

“**§576E-2 Attorney general; powers.** Notwithstanding any other law to the contrary, the attorney general, through the agency and the office, shall have concurrent jurisdiction with the court in all proceedings in which a support obligation is established, modified, or enforced, including but not limited to proceedings under chapters 571, 580, 584, and 576B[, the Uniform Interstate Family Support Act]. The attorney general, through the agency and the office, may establish, modify, suspend, terminate, and enforce child support obligations and collect or enforce spousal support using the administrative process provided in this chapter on all cases for which the department has a responsibility under Title IV-D of the Social Security Act, including but not limited to welfare and nonwelfare cases in which the responsible parent is subject to the department’s jurisdiction, regardless of the residence of the children for whom support is sought. These powers shall include but not be limited to the power to:

- (1) Conduct investigations into the ability of parties to pay support and into nonpayment of support;
- (2) Administer oaths, issue subpoenas, and require production of books, accounts, documents, and evidence;
- (3) Establish, modify, suspend, terminate, or enforce a child support order and to collect or enforce a spousal support order in conjunction with a child support order;
- (4) Determine that a party has not complied with a court or administrative order and make recommendations to the court or other agency with respect to contempt or other appropriate proceedings;
- (5) Establish arrearage;
- (6) Establish a public assistance debt under section 346-37.1;
- (7) Order and enforce assignment of future income under section 576E-16, chapter 571, and section 576D-14;
- (8) Exercise the powers and authority described in this section, notwithstanding the existence of a prior court or administrative order issued by another state or foreign jurisdiction, except as modified or limited by this chapter;
- (9) Determine that an obligor owes past-due support with respect to a child receiving assistance under a state program funded under Title IV-A of the Social Security Act, including Aid to Families with Dependent Children and Temporary Assistance to Needy Families and petition the court to issue an order that requires the obligor to pay such support in accordance with a plan approved by the court or, if the obligor is subject to such a plan and is not incapacitated, participate in work activities, as defined in 42 U.S.C. §607(d), as the court deems appropriate;
- (10) Order genetic testing pursuant to chapter 584 for the purpose of establishing paternity[;], with payment of costs to be made by the agency, subject to recoupment by the State from the father or the mother, if appropriate, if paternity is established, and to also order additional

testing in any case if an original test result is contested, upon request and advance payment by the contestant;

- (11) Exercise the powers and authority described in this section, notwithstanding the existence of a prior court or administrative order issued by another state or foreign jurisdiction, except as modified or limited by this chapter and chapter [[576B[, the Uniform Interstate Family Support Act]]; and
- (12) Delegate the powers and authority described in this section to hearings officers and employees of the agency.’’

SECTION 9. Section 576E-10, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) In exercising the powers conferred upon the attorney general in section 576E-2, the hearings officers shall have the authority to conduct hearings and enter the following orders:

- (1) Child support orders which have the effect of modifying, suspending, terminating, or enforcing the child support provisions of orders of the family courts;
- (2) Child support orders establishing, modifying, suspending, terminating, or enforcing child support obligations;
- (3) Orders enforcing the collection of spousal support when child support is being established, modified, or enforced;
- (4) Income withholding orders pursuant to section 576E-16;
- (5) Automatic income assignment orders pursuant to sections 571-52.2 and 576D-14;
- (6) Interstate income withholding orders pursuant to chapter [576 or its successor;] 576B;
- (7) State income tax refund setoff orders pursuant to section 231-54;
- (8) Orders determining whether Aid to Families with Dependent Children pass through payments were properly distributed;
- (9) Orders determining whether a party should be required to post bond in order to secure payment of past due support pursuant to section 576D-6;
- (10) Medical insurance coverage orders;
- (11) Orders suspending or denying the granting, the renewal, the reinstatement, or the restoration of licenses or applications of an obligor or individual for noncompliance with an order of support or failure to comply with a subpoena or warrant relating to a paternity or child support proceeding, and authorizations allowing the reinstatement of suspended licenses or consideration of license applications pursuant to section 576D-13; [and]
- (12) Orders concerning whether a responsible parent’s child support obligation should be reported to consumer credit reporting agencies pursuant to chapter 576D; and
- [(12)] (13) Orders in other child support areas as authorized by the attorney general.’’

SECTION 10. Section 584-3.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) To expedite the establishment of paternity, each public and private birthing hospital or center and the department of health shall provide unwed parents the opportunity to voluntarily acknowledge the paternity of a child during the period

immediately prior to or following the child’s birth. The voluntary acknowledgment of paternity shall be in writing and shall consist of a single form signed under oath by both the natural mother and the natural father and signed by a witness. The voluntary acknowledgment of paternity form shall include the Social Security number of each parent. Prior to the signing of the voluntary acknowledgment of paternity form, designated staff members of such facilities shall provide to both the mother and the alleged father, if he is present at the facility:

- (1) Written materials regarding paternity establishment;
- (2) Forms necessary to voluntarily acknowledge paternity; and
- (3) Oral and written descriptions of the alternatives to, the legal consequences of, and the rights and responsibilities of acknowledging paternity, including, if one parent is a minor, any right afforded due to minority status[; and
- (4) The opportunity to speak with staff who are trained to provide information and answer questions about paternity establishment].

The completed voluntary acknowledgment forms shall clearly identify the name and position of the staff member who provides information [and answers questions of] to the parents regarding paternity establishment. The provision by designated staff members of the facility of the information required by this section shall not constitute the unauthorized practice of law. Each facility shall send to the department of health the original acknowledgment of paternity containing the Social Security numbers, if available, of both parents, with the information required by the department of health so that the birth certificate issued includes the name of the legal father of the child, which shall be promptly recorded by the department of health.’’

SECTION 11. Section 634-37, Hawaii Revised Statutes, is amended to read as follows:

“[[§634-37]] **Presumption of notice and service of process in child support cases.** Whenever notice and service of process is required for child support enforcement proceedings subsequent to an order issued pursuant to chapter 571, [576 or its successor,] 576B, 576E, 580, or 584, upon a showing that diligent effort has been made to ascertain the location of a party, notice and service of process shall be presumed to be satisfied upon delivery of written notice to the most recent residential or employer address on file with the state case registry pursuant to section 571-52.6.’’

SECTION 12. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 13. This Act shall take effect upon its approval.

(Approved May 26, 1998.)

**ACT 84**

H.B. NO. 3082

A Bill for an Act Relating to Administrative Revocation of Driver’s License.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to amend the provisions of chapter 286, Hawaii Revised Statutes, where appropriate to make it apply to section 291-4.4, Hawaii Revised Statutes.

SECTION 2. Section 286-251, Hawaii Revised Statutes, is amended by amending the definitions of “administrative revocation”, “arrestee”, and “license” to read as follows:

““Administrative revocation” means termination of the arrestee’s license pursuant to this part and does not include any revocation imposed under section 291-4[.] or 291-4.4.

“Arrestee” means the person arrested for the<sup>1</sup> violation of section 291-4 or 291-4.4 who is subject to administrative revocation pursuant to this part.

“License” means any driver’s license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this State and includes:

- (1) Any [temporary license] learner’s permit or instruction permit;
- (2) The privilege of any person to drive a motor vehicle regardless of whether the persons<sup>2</sup> holds a valid license;
- (3) Any nonresident’s operating privilege; and
- (4) The eligibility, including future eligibility, of any person to apply for the privilege to drive a motor vehicle.”

SECTION 3. Section 286-253, Hawaii Revised Statutes, is amended to read as follows:

“**§286-253 Criminal prosecution.** (a) Criminal prosecution under section 291-4 or 291-4.4 may be commenced concurrently with administrative revocation proceedings under this part; provided that documentary and testimonial evidence provided by the arrestee during the administrative proceeding<sup>3</sup> shall not be admissible against the arrestee in any proceedings<sup>4</sup> under section 291-4 or 291-4.4 arising out of the same occurrence.

(b) When a person’s license is revoked under this part and the person also is convicted of an offense under section 291-4 or 291-4.4 arising out of the same occurrence, the total period of revocation or suspension imposed in the two proceedings shall not exceed the longer period of revocation or suspension imposed in either proceeding. If the person is convicted under section 291-4 or 291-4.4 prior to completion of administrative proceedings, the person shall surrender the temporary permit issued under this part at the time of entry of a plea of guilty or no contest, entry of a verdict of guilty, or of sentencing, whichever occurs first.”

SECTION 4. Section 286-254, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The notice of administrative revocation shall provide, at a minimum and in clear language, the following general information relating to administrative revocation:

- (1) The statutory authority for administrative revocation;
- (2) An explanation of the distinction between administrative revocation and a suspension or revocation imposed under section 291-4[;] or 291-4.4; and
- (3) That criminal charges filed pursuant to section 291-4 or 291-4.4 may be prosecuted concurrently with the administrative action.”

SECTION 5. Section 286-255, Hawaii Revised Statutes, is amended to read as follows:

“**§286-255 Arrest; procedures.** Whenever a person is arrested for a violation of 291-4[,], or 291-4.4, on a determination by the arresting officer that:

- (1) There was reasonable suspicion to stop the motor vehicle, or that the motor vehicle was stopped at an intoxication control roadblock established and operated in compliance with sections 286-162.5 and 286-162.6; and
- (2) There was probable cause to believe that the arrestee was driving, operating, or in actual physical control of the motor vehicle while under the influence of intoxicating liquor;

the arresting officer shall immediately take possession of any license held by the person and request the arrestee to take a test for concentration of alcohol in the blood. The arresting officer shall inform the person that the person has the option to take a breath test, a blood test, or both. The arresting officer also shall [also] inform the person of the sanctions under this part, including the sanction for refusing to take a breath or<sup>5</sup> blood test. The arresting officer shall then complete and issue to the arrestee a notice of administrative revocation and shall indicate thereon whether the notice shall serve as a temporary permit. The notice shall serve as a temporary permit, unless at the time of arrest the arrestee was unlicensed, the arrestee’s license was revoked or suspended, or the arrestee had no license in the arrestee’s possession.”

SECTION 6. Section 286-257, Hawaii Revised Statutes, is amended to read as follows:

“**§286-257 Sworn statements of law enforcement officials.** (a) Whenever a person is arrested for a violation of section 291-4 or 291-4.4 and submits to a test that establishes that the arrestee’s alcohol concentration was .08 or more, the following shall be immediately forwarded to the director:

- (1) A copy of the arrest report and the sworn statement of the arresting officer stating facts that establish that:
  - (A) There was reasonable suspicion to stop the motor vehicle or the motor vehicle was stopped at an intoxication control roadblock established and operated in compliance with sections 286-162.5 and 286-162.6;
  - (B) There was probable cause to believe that the arrestee had been driving, operating, or in actual physical control of the motor vehicle while under the influence of intoxicating liquor;
  - (C) The arrestee was informed of the sanctions of this part, that criminal charges may be filed, and the consequences of refusing to be tested for alcohol concentration; and
  - (D) The arrestee agreed to be tested;
- (2) The sworn statement of the person responsible for the maintenance of the testing equipment stating facts that establish that pursuant to section 321-161 and rules adopted thereunder:
  - (A) The equipment used to conduct the test was approved for use as an alcohol testing device in this State;
  - (B) The person had been trained and at the time the test was conducted was certified and capable of maintaining the testing equipment; and
  - (C) The testing equipment used had been properly maintained and was in good working condition when the test was conducted;
- (3) The sworn statement of the person who conducted the test stating facts that establish that pursuant to section 321-161 and rules adopted thereunder:



- (A) The person was trained and at the time the test was conducted was certified and capable of operating the testing equipment;
  - (B) The person followed the procedures established for conducting the test;
  - (C) The equipment used to conduct the test functioned in accordance with operating procedures and indicated that the person's alcohol concentration was at, or above, the prohibited level; and
  - (D) The person whose breath or blood was tested was the person arrested;
- (4) A copy of the notice of administrative revocation issued to the arrestee;
  - (5) Any driver's license taken into possession by the arresting officer; and
  - (6) A listing of any prior alcohol enforcement contacts involving the arrestee.
- (b) Whenever a person is arrested for a violation of section 291-4 or 291-4.4 and refuses to submit to a test to determine alcohol concentration in the blood, the following shall be immediately forwarded to the director:
- (1) A copy of the arrest report and the sworn statement of the arresting officer stating facts [which] that establish that:
    - (A) There was reasonable suspicion to stop the motor vehicle or the motor vehicle was stopped at an intoxication control roadblock established and operated in compliance with sections 286-162.5 and 286-162.6;
    - (B) There was probable cause to believe that the arrestee had been driving, operating, or in actual physical control of the motor vehicle while under the influence of intoxicating liquor;
    - (C) The arrestee was informed of the sanctions of this part, that criminal charges may be filed, and the probable consequences of refusing to be tested for concentration of alcohol in the blood; and
    - (D) The arrestee refused to be tested;
  - (2) A copy of the notice of administrative revocation and the temporary permit issued to the arrestee;
  - (3) Any driver's license taken into possession; and
  - (4) A listing of all alcohol enforcement contacts involving the arrestee."

SECTION 7. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval.

(Approved May 26, 1998.)

#### Notes

1. "The" should be underscored.
2. Prior to amendment "person" appeared here.
3. Prior to amendment "proceedings" appeared here.
4. Prior to amendment "proceeding" appeared here.
5. Prior to amendment "a" appeared here.

A Bill for an Act Relating to Administrative Revocation of Driver's License.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-251, Hawaii Revised Statutes, is amended by amending the definition of "arrestee" to read as follows:

““Arrestee” means [the] a person arrested for violation of section 291-4 [who is subject to administrative revocation pursuant to this part.] and, for purposes of this part, also refers to a person from whom a blood sample has been drawn pursuant to section 286-163, because there was probable cause to believe that the person has violated section 291-4.”

SECTION 2. Section 286-255, Hawaii Revised Statutes, is amended to read as follows:

“**§286-255 Arrest; procedures.** (a) Whenever a person is arrested for a violation of section 291-4, on a determination by the arresting officer that:

- (1) There was reasonable suspicion to stop the motor vehicle, or that the motor vehicle was stopped at an intoxication and drug control roadblock established and operated in compliance with sections 286-162.5 and 286-162.6; and
- (2) There was probable cause to believe that the arrestee was driving, operating, or in actual physical control of the motor vehicle while under the influence of intoxicating liquor;

the arresting officer immediately shall [immediately] take possession of any license held by the person and request the arrestee to take a test for concentration of alcohol in the blood. The arresting officer shall inform the person that the person has the option to take a breath test, a blood test, or both. The arresting officer also shall [also] inform the person of the sanctions under this part, including the sanction for refusing to take a breath or a blood test. [The] Thereafter, the arresting officer shall [then] complete and issue to the arrestee a notice of administrative revocation and shall indicate thereon whether the notice shall serve as a temporary permit. The notice shall serve as a temporary permit, unless, at the time of arrest, the arrestee was unlicensed, the arrestee's license was revoked or suspended, or the arrestee had no license in the arrestee's possession.

(b) Whenever the police determine that, as the result of a blood test performed pursuant to section 286-163(b) and (c), there is probable cause to believe that a person being treated in a hospital or medical facility has violated section 291-4, the police shall complete and issue to the person a notice of administrative revocation and shall indicate thereon whether the notice shall serve as a temporary permit. The notice shall serve as a temporary permit unless, at the time the notice was issued, the person was unlicensed, the person's license was revoked or suspended, or the person had no license in the person's possession.”

SECTION 3. Section 286-257, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Whenever a person: is arrested for a violation of section 291-4 and submits to a test that establishes that the arrestee's alcohol concentration was .08 or more[.]; or has been involved in a collision resulting in injury or death and a blood test performed pursuant to section 286-163 establishes that the person's alcohol

concentration was .08 or more, the following shall be immediately forwarded to the director:

- (1) A copy of the arrest report or the report of the officer who issued the notice of administrative revocation to the person involved in a collision resulting in injury or death and the sworn statement of the arresting officer or the officer who issued the notice of administrative revocation stating facts that establish that:
  - (A) There was reasonable suspicion to stop the motor vehicle [or], the motor vehicle was stopped at an intoxication and drug control roadblock established and operated in compliance with sections 286-162.5 and 286-162.6[;], or the person was tested pursuant to section 286-163;
  - (B) There was probable cause to believe that the arrestee had been driving, operating, or in actual physical control of the motor vehicle while under the influence of intoxicating liquor;
  - (C) The arrestee was informed of the sanctions of this part, that criminal charges may be filed, and the consequences of refusing to be tested for alcohol concentration; and
  - (D) The arrestee agreed to be tested[;] or the person was tested pursuant to section 286-163;
- (2) The sworn statement of the person responsible for maintenance of the testing equipment stating facts that establish that pursuant to section 321-161 and rules adopted thereunder:
  - (A) The equipment used to conduct the test was approved for use as an alcohol testing device in this State;
  - (B) The person had been trained and at the time the test was conducted was certified and capable of maintaining the testing equipment; and
  - (C) The testing equipment used had been properly maintained and was in good working condition when the test was conducted;
- (3) The sworn statement of the person who conducted the test stating facts that establish that pursuant to section 321-161 and rules adopted thereunder:
  - (A) The person was trained and at the time the test was conducted was certified and capable of operating the testing equipment;
  - (B) The person followed the procedures established for conducting the test;
  - (C) The equipment used to conduct the test functioned in accordance with operating procedures and indicated that the person's alcohol concentration was at, or above, the prohibited level; and
  - (D) The person whose breath or blood was tested was the person arrested;
- (4) A copy of the notice of administrative revocation issued to the arrestee;
- (5) Any driver's license taken into possession by the arresting officer; and
- (6) A listing of any prior alcohol enforcement contacts involving the arrestee.”

SECTION 4. Section 286-258, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The director shall administratively revoke the arrestee's driver's license if the director determines that:

- (1) There existed reasonable suspicion to stop the motor vehicle [or], the motor vehicle was stopped at an intoxication and drug control

roadblock established and operated in compliance with sections 286-162.5 and 286-162.6[;], or the person was tested pursuant to section 286-163;

- (2) There existed probable cause to believe that the arrestee drove, operated, or was in actual physical control of the motor vehicle while under the influence of intoxicating liquor; and
- (3) The evidence proves by a preponderance that the arrestee drove, operated, or was in actual physical control of the motor vehicle while under the influence of intoxicating liquor or while having an alcohol concentration of .08 or more or that the arrestee refused to submit to a breath or blood test after being informed of the sanctions of this part.”

SECTION 5. Section 286-259, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) The director shall affirm the administrative revocation only if the director determines that:

- (1) There existed reasonable suspicion to stop the motor vehicle [or], the motor vehicle was stopped at an intoxication and drug control roadblock established and operated in compliance with sections 286-162.5 and 286-162.6[;], or the person was tested pursuant to section 286-163;
- (2) There existed probable cause to believe that the arrestee drove, operated, or was in actual physical control of the motor vehicle while under the influence of intoxicating liquor; and
- (3) The evidence proves by a preponderance that the arrestee drove, operated, or was in actual physical control of the motor vehicle while under the influence of intoxicating liquor or while having an alcohol concentration of .08 or more or that the arrestee refused to submit to a breath or blood test after being informed of the sanctions of this part.”

SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved May 26, 1998.)

ACT 86

H.B. NO. 3581

A Bill for an Act Relating to Statewide Traffic Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 291C-194, Hawaii Revised Statutes, is amended to read as follows:

“**§291C-194 Driver’s license required.** (a) No person shall drive a moped unless the person:

- (1) Possesses a valid driver's license of any category listed in section 286-102 provided that if the person applies for a driver's license solely to operate a moped, the person may use a moped to meet the licensing requirements in section 286-102 and shall be licensed in the same category as motor scooters. After meeting the licensing requirements, the person shall also be licensed to operate motor scooters[.]; and
- (2) Meets the requirements of section 286-105(3).

(b) The driver of a moped shall, upon the demand of a police officer, exhibit the driver's driver's license or instruction permit.

(c) Any person who is convicted of violating this section shall be subject to penalties as provided under section 291C-161(b) and (e).''

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 26, 1998.)

## ACT 87

S.B. NO. 705

A Bill for an Act Relating to Civil Service Exemptions for the Judiciary.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 76-16, Hawaii Revised Statutes, is amended to read as follows:

**“§76-16 Civil service and exemptions.** The civil service to which this part applies shall comprise all positions in the State now existing or hereafter established and embrace all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard that are required by state or federal laws or regulations or orders of the national guard to be filled from those commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of human resources development has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the position does not exceed one year, but before any person may be employed to render the temporary service, the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;

- (5) Employees in the office of the governor and household employees at Washington Place;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; one secretary for the judicial council; one deputy administrative director of the courts; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, [and] one law clerk for each judge of the circuit court, [one] two additional law [clerk] clerks for the civil administrative judge of the circuit court of the first circuit, [one] two additional law [clerk] clerks for the criminal administrative judge of the circuit court of the first circuit, one additional law clerk for the [family court administrative] senior judge of the family court of the [fifth] first circuit, [one] two additional law [clerk] clerks for the civil motions judge of the circuit court of the first circuit, [one] two additional law [clerk] clerks for the criminal motions judge of the circuit court of the first circuit, and two law clerks for the administrative judge of the district court of the first circuit; and one private secretary for the administrative director of the courts, the deputy administrative director of the courts, each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
- (10) First deputy and deputy attorneys general, the administrative services manager of the department of the attorney general, one secretary for the administrative services manager, an administrator and any support staff for the criminal and juvenile justice resources coordination functions, and law clerks;
- (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, the special assistant to the state librarian, one secretary for the special assistant to the state librarian, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work, and administrative, professional, and technical personnel of the university;
- (12) Employees engaged in special, research, or demonstration projects approved by the governor;
- (13) Positions filled by inmates, kokuas, patients of state institutions, persons with severe physical or mental handicaps participating in the work experience training programs, and students and positions filled through federally funded programs that provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973;

- (14) A custodian or guide at Iolani Palace, the Royal Mausoleum, and Hulihee Palace;
- (15) Positions filled by persons employed on a fee, contract, or piecework basis, who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
- (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, Article V, of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; four additional deputies in the department of health, each in charge of one of the following: behavioral health, environmental health, hospitals, and health resources administration, including other functions within the department as may be assigned by the director of health, with the approval of the governor; an administrative assistant to the state librarian; and an administrative assistant to the superintendent of education;
- (17) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
- (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe personnel shortage or in special projects;
- (19) Household employees at the official residence of the president of the University of Hawaii;
- (20) Employees in the department of education engaged in the supervision of students during lunch periods and in the cleaning of classrooms after school hours on a less than half-time basis;
- (21) Employees hired under the tenant hire program of the housing and community development corporation of Hawaii; provided that not more than twenty-six per cent of the corporation's work force in any housing project maintained or operated by the corporation shall be hired under the tenant hire program;
- (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii that require the hiring of nutrition program assistants who live in the areas they serve;
- (23) Positions filled by severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to perform safely the duties of the positions;
- (24) One public high school student to be selected by the Hawaii state student council as a nonvoting member on the board of education as authorized by the State Constitution;
- (25) Sheriff, first deputy sheriff, and second deputy sheriff; and
- (26) A gender and other fairness coordinator hired by the judiciary.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

**ACT 88**

SECTION 3. This Act shall take effect on July 1, 1998.

(Approved May 26, 1998.)

**ACT 88**

S.B. NO. 1081

A Bill for an Act Relating to Conservation and Resources.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 183D-21, Hawaii Revised Statutes, is amended to read as follows:

**“§183D-21 Hunting licenses required.** No person shall hunt, pursue, kill, or take any game bird or mammal without first procuring a hunting license; provided that section 183D-32 to the contrary notwithstanding, no license shall be required of [employees of the department or of other] persons[,] who may be authorized in writing by the board to destroy game birds or game mammals injurious to forest growth or agriculture, or that constitute a nuisance or a health hazard.”

SECTION 2. Section 183D-22, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A hunting license shall be issued to a person by an agent of the department upon:

- (1) Written application in the form prescribed by the department;
- (2) Payment of a hunting license fee or any other hunting related fee the board may require as provided in this chapter; except that payment of the fee shall be waived for any employee of the department who is required to have a license to carry out duties of the department; and
- (3) Showing of a valid hunter education certificate or written exemption issued under section 183D-28.

The application shall require a statement under oath of the applicant’s name, address, domicile or residence, length of residence in the State, age, race, height, weight, and color of hair and eyes.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 26, 1998.)

**ACT 89**

S.B. NO. 1465

A Bill for an Act Relating to Public Employees.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-103.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:



- “(a) The employees’ retirement system shall [disclose]:
- (1) Disclose to the Hawaii public employees health fund and employee organizations information related to the administration of pension, annuity, or retirement allowance deductions, as follows: name, social security number, amounts and dates of both voluntary and mandatory deductions remitted to the recipient[.]; and
  - (2) Release the records of its retrants and beneficiaries to the Hawaii public employees health fund for the disbursement of payments authorized under section 87-27.’”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 26, 1998.)

## ACT 90

S.B. NO. 2132

A Bill for an Act Relating to Liquor Licenses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 281-1, Hawaii Revised Statutes, is amended by amending the definition of “person” to read as follows:

““Person” means and includes natural persons, associations, copartnerships, limited liability companies, and corporations, and also includes any agent, servant, and employee of such person.”

SECTION 2. Section 281-32.3, Hawaii Revised Statutes, is amended to read as follows:

**“§281-32.3 One-day special licenses for fundraising events [by not for profit organizations].** Notwithstanding any other section of this chapter to the contrary, the commission shall adopt rules to streamline procedures including the waiving of hearings, fees, notarization of documents, submission of floor plans, and other requirements, to provide for the issuance of special licenses for the sale of liquor for a period not to exceed one day, for classes of fundraising events by [not for profit organizations] nonprofit organizations established by the commission. The commission shall also adopt rules to facilitate the issuance of such licenses through the mail.

Any registered educational or charitable nonprofit organization may sell liquors in their original packages for off-premises consumption for fundraising events allowed in this section, in accordance with rules adopted by the commission pursuant to chapter 91.’”

SECTION 3. Section 281-41, Hawaii Revised Statutes, is amended to read as follows:

**“§281-41 Transfer of licenses; notice of change in officers, directors, and stockholders of corporate licenses[;], partners of a partnership license, and members of a limited liability company license; penalty.** No license issued under

this chapter to an original applicant or to any transferee shall be transferable or be transferred within one year of such issuance or transfer except for good cause shown to the satisfaction of the liquor commission. No license issued under this chapter shall be transferable or be transferred except upon written application to the commission by the proposed transferee, and after prior inspection of the premises, reference to, and report by an inspector, and a public hearing held by the commission not less than fourteen days after one publication of notice thereof, but without sending notice of the hearing by mail to persons being the owners or lessees of real estate situated within the vicinity of the premises and without the right to such owners or lessees to protest the transfer of a license. Exceptions are class 5 and 11 licensees who must comply with the notice requirements as set forth in section 281-57. No class 5 or 12 license issued to a standard bar as defined in section 281-1, shall be transferable to other than a standard bar, and that such license shall be subject to revocation if the licensed [premise] premises is not retained as a standard bar except upon written application to the commission by the licensee and/or the proposed transferee, subject to sections 281-51 to 281-60.

Where a license is held by a partnership, the commission may, notwithstanding this section, transfer the license upon the death or withdrawal of a member of the partnership to any remaining partner or partners without publication of notice and without public hearing.

Where a license is held by a limited partnership[,] or a limited liability company, the admission or withdrawal of a limited partner or a member of the limited liability company shall not be deemed a transfer of the license held by the partnership[,] or limited liability company, but the licensee shall, prior to such admission or withdrawal, so notify the commission in writing, stating the name of the partner, [or] partners, member, or members who have withdrawn, if such be the case, and the name, age, and place of residence of the partner, [or] partners, member, or members who have been admitted, if that be the case. If the commission finds a limited partner or a member to be an unfit or improper person to hold a license in the limited partner's or member's own right pursuant to section 281-45, it may revoke the license or suspend the license of the partnership or the limited liability company until the unfit or improper partner or member is removed or replaced.

Except as otherwise provided in this section, the same procedure shall be followed in regard to the transfer of a license as is prescribed by this chapter for obtaining a license. Sections 281-51 to 281-60, except where inconsistent with any provision hereof, are hereby made applicable to such transfers.

The word "applicant", as used in such sections, shall include each such proposed transferee, and the words, "application for a license or for the renewal of a license", as used in such sections, shall include an application for the transfer of a license.

Upon the hearing, the commission shall consider the application and any objections to the granting thereof, and hear the parties in interest. It shall inquire into the propriety of each transfer and determine whether the proposed transferee is a fit person to hold the license. It may approve a transfer or refuse to approve a transfer, and the refusal by the commission to approve a transfer shall be final and conclusive, unless an appeal is taken as provided in chapter 91.

If any licensee without such approval transfers to any other person the licensee's business for which the licensee's license was issued, either openly or under any undisclosed arrangement whereby any person other than the licensee comes into possession or control of the business, or takes in any partner or associate the commission may in its discretion suspend or cancel the license.

If the licensee is a corporation, a change in ownership of any outstanding capital stock shall not be deemed a transfer of a license; provided that in the case of a change in ownership of twenty-five per cent or more of the stock or in the case of

change in ownership of any number of shares of the stock which results in the transferee thereof becoming the owner of twenty-five per cent or more of the outstanding capital stock, the corporate licensee shall, prior to the date of such transfer, apply for and secure the approval of the transfer from the commission in writing. If the commission finds that the proposed transferee is an unfit or improper person to hold a license in the proposed transferee's own right pursuant to section 281-45, it shall not approve the proposed transfer. If any transfer is made without the prior approval of the commission, the commission may in its discretion revoke or suspend the license until it determines that the transferee is a fit and proper person, and if the commission finds that the transferee is not a fit and proper person, until a retransfer or new transfer of the capital stock is made to a fit and proper person pursuant to section 281-45. In addition, the corporate licensee shall, within thirty days from the date of election of any officer or director, notify the commission in writing of the name, age, and place of residence of such officer or director. If the commission finds the transferee, officer, or director an unfit or improper person to hold a license in the transferee's, officer's, or director's own right pursuant to section 281-45, it may in its discretion revoke the license or suspend the license until a retransfer or new transfer of such capital stock is effected to a fit or proper person pursuant to section 281-45 or until the unfit or improper officer or director is removed or replaced by a fit and proper person pursuant to section 281-45.

If a licensee closes out the business for which the license is held, during the term for which the license was issued, the licensee shall, within five days from the date of closing the same, give the commission written notice thereof and surrender the licensee's license for cancellation."

SECTION 4. Section 281-53, Hawaii Revised Statutes, is amended to read as follows:

**“§281-53 Application; penalty for false statements.** Every application for a license or for the renewal of a license or for the transfer of a license shall be in writing, signed and, except for the renewal of a license, verified by the oath of the applicant, or in the case of a corporation or unincorporated association by the proper officer or officers thereof, or if a partnership by a general partner thereof, or if a limited liability company by a member thereof, made before any official authorized by law to administer oaths, and shall be addressed to the liquor commission, and set forth:

- (1) The full name, age, and place of residence of the applicant; [and] if a copartnership, the names, ages, and respective places of residence of all the partners; if a limited liability company, its full name and the names of all its members; if a corporation or joint-stock company, its full name and the names of its officers and directors, and the names of all stockholders owning twenty-five per cent or more of the outstanding capital stock; and if any other association of individuals, the names, ages, and respective places of residence of its officers and the number of its members;
- (2) A particular description of the place or premises where the proposed license is to be exercised, so that the exact location and extent thereof may be clearly and definitely determined therefrom;
- (3) The class and kind of license applied for; and
- (4) Any other matter or information pertinent to the subject matter which may be required by the rules and regulations of the commission.

If any false statement is knowingly made in any application which is verified by oath, the applicant, and in the case of the application being made by a corporation, limited liability company, association, or club, the persons signing the applica-

tion, shall be guilty of perjury, and shall be subject to the penalties prescribed by law for such offense. If any false statement is knowingly made in any application which is not verified by oath, the person or persons signing the application shall be guilty of a misdemeanor and upon conviction thereof shall be punished as in section 281-102 provided.”

SECTION 5. Section 281-91, Hawaii Revised Statutes, is amended to read as follows:

**“§281-91 Revocation or suspension of license; hearing.** The liquor commission may revoke any license at any time issued, or suspend the right of the licensee to use the licensee’s license, or assess and collect a penalty, or reprimand the licensee, either for the violation of any condition of the license or of any provisions of this chapter or of any rule or regulation applicable thereto, or upon the conviction in a court of law of the licensee of any violation of this chapter or of any other law relative to the licensee’s license or the proper exercise thereof, or of any violation of law in any other respect on account whereof the commission may deem the licensee to be an unfit or improper person to hold a license, or for any other cause deemed sufficient by the commission.

In every case where it is proposed to revoke or suspend the exercise of any license or assess and collect a penalty for any cause other than a conviction at law of the licensee as above specified, the licensee shall be entitled to notice and hearing in conformity with chapter 91, the notice to be given at least five days before the hearing, except that any special license shall be subject to summary revocation for any violation of or evidence of intent to violate the proper exercise thereof, without hearing before the commission.

At the hearing, before final action is taken by the commission, the licensee shall be entitled to be heard in person or through counsel and shall be given a full and fair opportunity to present any facts showing that the alleged cause or causes for the proposed action do not exist, or any reasons why no penalty should be imposed. The testimony taken at the hearing shall be under oath and recorded stenographically, or by machine, but the parties shall not be bound by the strict rules of evidence; certified copies of any transcript and of any other record made of or at the hearing shall be furnished to the licensee upon the licensee’s request and at the licensee’s expense.

Any order of revocation, suspension, fine, or reprimand imposed by the commission upon the licensee shall be in addition to any penalty that might be imposed upon the licensee upon the licensee’s conviction at law for any violation of this chapter. No licensee shall be subject to both the penalty assessed and collected by the commission and to revocation or suspension of license. The amount of penalty assessed and collected by the commission from any licensee for any particular offense shall not exceed the sum of \$2,000.

Whenever the service of any order or notice shall be required by this section such service shall be made in the following manner: in the case of any violation based upon the personal observation of any investigator, a written notice of the violation shall be given to the licensee or the licensee’s registered manager in active charge of the premises, or by serving a certified copy of the notice or order upon the holder of the license wherever the holder may be found in the circuit wherein the holder is licensed, or, if the holder cannot be found after diligent search, by leaving a certified copy thereof at the holder’s dwelling house or usual place of abode with some person of suitable age and discretion residing therein; and if the holder of the license cannot be found after diligent search, and service cannot be made, then service may be made by posting a certified copy of the notice or order in a conspicuous place on the licensed premises and depositing another certified copy

thereof in the certified mail of the United States post office, postage prepaid, addressed to the holder of the license at the holder's last known residence address; provided that in the case of a partnership, [or] licensed corporation, [or] unincorporated association, or limited liability company, service may be made upon any partner, [or] officer, or member thereof.”

SECTION 6. Section 281-101.4, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§281-101.4]]~~ **Hearing, illegal manufacture, importation, or sale of liquor.** The liquor commission may assess and collect a penalty, or reprimand a person for not having a valid license to manufacture or sell any liquor in violation of this chapter or of any rule or regulation applicable thereto.

In every case where the administrator elects to conduct proceedings under this section where it is proposed to assess and collect a penalty from a person for not having a valid license to manufacture or sell any liquor in violation of this chapter or of any rule or regulation applicable thereto, such person shall be entitled to notice and hearing in conformity with chapter 91.

At the hearing, before final action is taken by the commission, the person shall be entitled to be heard in person or through counsel and shall be given a full and fair opportunity to present facts showing that the alleged cause or causes for the proposed action do not exist, or any reason why no penalty should be imposed. The testimony taken at the hearing shall be under oath and recorded stenographically, or by machine, but the parties shall not be bound by the strict rules of evidence; certified copies of any transcript and of any other record made of or at the hearing shall be furnished to such person upon that person's request and at that person's expense.

Any order, reprimand, or penalty imposed by the commission upon a person for not having a valid license to manufacture or sell any liquor in violation of this chapter or of any rule or regulation applicable thereto shall be in addition to any penalty that might be imposed upon that person's conviction in a court of law for any violation of this chapter. The amount of penalty assessed and collected by the commission from any person under this section for not having a valid license to manufacture or sell any liquor shall not exceed the sum of \$2,000 for each charge.

Whenever the service of any order or notice shall be required by this section such service shall be made in the following manner: in the case of any violation based upon the personal observation of any investigator, a written notice of the violation shall be given to the person charged with a violation within a reasonable period of time after the alleged violation occurred, the person charged shall be requested to acknowledge receipt of the alleged violation, or, if the person cannot be found after diligent search, by leaving a certified copy thereof at the person's dwelling house or usual place of abode with some person of suitable age and discretion residing therein; and if the person cannot be found after diligent search, and service cannot be made, then service may be made by depositing another certified copy thereof in the certified mail of the United States post office, postage prepaid, addressed to the person at the person's last known residence address; provided, that in the case of a partnership, corporation, [or] unincorporated association, or limited liability company, service may be made upon any partner, [or] officer, or member thereof.”

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

**ACT 91**

SECTION 8. This Act shall take effect upon its approval.

(Approved May 26, 1998.)

**ACT 91**

S.B. NO. 2180

A Bill for an Act Relating to Motor Carriers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 271-27, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) Any person knowingly and wilfully violating any provision of this chapter, or any rule, requirement, or order thereunder, or any term or condition of any certificate or permit for which a penalty is not otherwise provided, shall be guilty of a misdemeanor. In addition, any shipper or consignee located in this State, or any officer, employee, agent, or representative thereof, who knowingly and wilfully engages [in] the services of any person violating any provision of this chapter, or any rule, requirement, or order, or any term or condition of any certificate or permit for which a penalty is not otherwise provided, shall be guilty of a misdemeanor.”

2. By amending subsection (h) to read:

“(h) Any motor carrier or lessor, or any officer, agent, employee, or representative thereof, who fails or refuses to comply with any provision of this chapter, or any rule, requirement, or order thereunder, and any shipper or consignee located in this State, or any officer, agent, employee, or representative of any such shipper or consignee, who engages [in] the services of any motor carrier or lessor, or any officer, agent, employee, or representative thereof, who fails or refuses to comply with any provision of this chapter, or any rule, requirement, or order, may be assessed a civil penalty payable to the State in a sum:

(1) Up to \$1,000 for each offense; and

(2) In the case of a continuing violation, not less than \$50 and not more than \$500 for each additional day during which the failure or refusal continues.”

3. By amending subsection (j) to read:

“(j) In addition to any other remedy available, the commission or its enforcement officer, including a motor vehicle safety officer employed and assigned by the department of transportation pursuant to section 271-38, may issue citations to persons acting in the capacity of or engaging in the business of a motor carrier within this State, without having a certificate of public convenience and necessity or other authority previously obtained under and in compliance with this chapter and rules adopted, or to any shipper or consignee located in this State, or any officer, employee, agent, or representative thereof who engages [in] the services of those persons.

(1) The citation may contain an order of abatement and an assessment of civil penalties as provided in subsection (h). All penalties collected under this subsection shall be deposited in the treasury of the State. Service of a citation issued under this subsection shall be made by personal service whenever possible[,] or by certified mail, restricted delivery, sent to the last known business or residence address of the person cited.

- (2) Any person served with a citation under this subsection may submit a written request to the commission for a hearing within twenty days from the receipt of the citation, with respect to the violations alleged, the scope of the order of abatement, and the amount of civil penalties assessed. If the person cited under this subsection notifies the commission of the request for a hearing in time, the commission shall afford the person an opportunity for a hearing under chapter 91. The hearing shall be conducted by the commission or the commission may designate a hearings officer to hold the hearing.
- (3) If the person cited under this subsection does not submit a written request to the commission for a hearing in time, the citation shall be deemed a final order of the commission. The commission may apply to the appropriate court for a judgment to enforce the provisions of any final order issued by the commission or designated hearings officer pursuant to this subsection, including the provisions for abatement and civil penalties imposed. In any proceeding to enforce the final order, the commission need only produce a certified copy of the final order and show that the notice was given[,] and that a hearing was held or the time granted for requesting the hearing has run without [such] a request.
- (4) If any party is aggrieved by the decision of the commission or the designated hearings officer, the party may appeal to the supreme court; provided that the operation of an abatement order [will] shall not be stayed on appeal unless specifically ordered by a court of competent jurisdiction after applying the stay criteria enumerated in section 91-14(c). The sanctions and disposition authorized under this subsection shall be separate and in addition to all other remedies either civil or criminal provided by law. The commission may adopt any rules under chapter 91 that may be necessary to fully effectuate this subsection."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 26, 1998.)

## ACT 92

S.B. NO. 2874

A Bill for an Act Relating to Child Welfare Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 346-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:  
 ““Abused or neglected” means subjected to “harm”, “imminent harm”,  
 or “threatened harm” as defined in section 587-2.”
2. By amending the definition of “child welfare services” to read:  
 ““Child welfare services” means [and includes all];
- (1) All services necessary for the protection and care of abused or neglected children and children in danger of becoming delinquent[, and all]; and

(2) All services necessary for the adoption of children.”

3. By deleting the definition of “neglected child”.

[““Neglected child” means any minor who for any reason is homeless or abandoned or who is receiving inadequate parental care or guardianship, or whose home, by reason of cruelty, neglect, or depravity on the part of the minor’s parents, guardian, or other person in whose care the minor may be, is an unfit place for the child.”]

SECTION 2. Section 346-14, Hawaii Revised Statutes, is amended to read as follows:

“**§346-14 Duties generally.** Except as otherwise provided by law, the department of human services shall:

- (1) Establish and administer programs and standards, and adopt rules as deemed necessary for all public assistance programs;
- (2) Establish, extend, and strengthen services for the protection and care of abused or neglected children and children in danger of becoming delinquent[;] to make paramount the safety and health of children who have been harmed or are in life circumstances that threaten harm;
- (3) Establish and administer programs, and adopt rules as deemed necessary, for the prevention of domestic and sexual violence and the protection and treatment of victims of domestic and sexual violence;
- (4) Assist in preventing family breakdown;
- (5) Place, or cooperate in placing, abused or neglected children in suitable private homes or institutions and place, or cooperate in placing, children in suitable adoptive homes;
- (6) Have authority to establish, maintain, and operate receiving homes for the temporary care and custody of abused or neglected children until suitable plans are made for their care; and accept from the police and other agencies, for temporary care and custody, any abused or neglected child until satisfactory plans are made for the child;
- (7) Administer the medical assistance programs for eligible public welfare and other medically needy individuals by establishing standards, eligibility, and health care participation rules, payment methodologies, reimbursement allowances, systems to monitor recipient and provider compliance, and assuring compliance with federal requirements [in order] to maximize federal financial participation;
- (8) Cooperate with the federal government in carrying out the purposes of the Social Security Act and in other matters of mutual concern pertaining to public welfare, public assistance, and child welfare services, including the making of reports, the adoption of methods of administration, and the making of rules as are found by the federal government, or any properly constituted authority thereunder, to be necessary or desirable for the efficient operation of the plans for public welfare, assistance, and child welfare services or as may be necessary or desirable for the receipt of financial assistance from the federal government;
- (9) Carry on research and compile statistics relative to public and private welfare activities throughout the State, including those dealing with dependence, defectiveness, delinquency, and related problems;
- (10) Develop plans in cooperation with other public and private agencies for the prevention and treatment of conditions giving rise to public welfare problems;
- (11) Adopt rules governing the procedure in hearings, investigations, recording, registration, determination of allowances, and accounting and



- conduct other activities as may be necessary or proper to carry out this chapter;
- (12) Supervise or administer any other activities authorized or required by this chapter, including the development of the staff of the department through in-service training and educational leave to attend schools and other appropriate measures, and any other activities placed under the jurisdiction of the department by any other law;
  - (13) Make, prescribe, and enforce policies and rules governing the activities provided for in section 346-31 it deems advisable, including the allocation of moneys available for assistance to persons assigned to work projects among the several counties or to particular projects where the apportionment has not been made pursuant to other provisions of law, if any, governing expenditures of the funds;
  - (14) Determine the appropriate level for the Hawaii security net, by developing a tracking and monitoring system to determine what segments of the population are not able to afford the basic necessities of life, and advise the legislature annually regarding the resources required to maintain the security net at the appropriate level;
  - (15) Subject to the appropriation of state funds and availability of federal matching assistance, expand optional health care to low-income persons as follows: [pregnant]
    - (A) Pregnant women and infants under one year of age living in families with incomes up to one hundred eighty-five per cent of the federal poverty level and without any asset restrictions[, children];
    - (B) Children under six years of age living in families with incomes up to one hundred thirty-three per cent of the federal poverty level and without any asset restrictions[, older];
    - (C) Older children to the extent permitted under optional federal medicaid rules[, elder];
    - (D) Elder persons[, aliens, the];
    - (E) Aliens;
    - (F) The homeless[,]; and [other]
    - (G) Other handicapped and medically needy persons;
 and
  - (16) Subject to the appropriation of state funds and availability of federal matching assistance, establish the income eligibility level for the medically needy program at one hundred thirty-three per cent of the assistance allowance.’’

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 26, 1998.)

A Bill for an Act Relating to Commercial Driver Licensing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 286, Hawaii Revised Statutes, is amended by adding a new section to part XIII to be appropriately designated and to read as follows:

**“§286- Reactivation of expired commercial driver’s license; fees; road test waived.** (a) Unless revoked or suspended, and except as provided in subsection (b), any commercial driver’s license that has expired under section 286-239 may be reactivated by the licensee in accordance with the requirements and procedures set forth for the renewal of commercial drivers’ licenses under section 286-239(h). No person seeking reactivation of an expired commercial driver’s license under this subsection shall be required to undergo reexamination of the person’s driving skills under section 286-236. The examiner of drivers shall require the holder of an expired commercial driver’s license to pay a reactivation fee of \$5 for each thirty-day period, or fraction thereof, that has elapsed after a ninety-day grace period.

(b) Any commercial driver’s license not reactivated under subsection (a) within one year of the indicated date of expiration shall be invalid. The examiner of drivers shall examine an applicant whose commercial driver’s license has been declared invalid under this subsection in accordance with the licensing procedures established under sections 286-236, 286-238, and 286-239.”

SECTION 2. Section 286-239, Hawaii Revised Statutes, is amended by amending subsections (g) and (h) to read as follows:

“(g) An initial commercial driver’s license shall be valid for not less than a two- or [four-year] six-year period, beginning on the driver’s birthday. Renewal licenses shall be valid for not more than a two- or [four-year] six-year period from the expiration date of the previous valid license. The commercial driver’s license shall expire on the next birthday of the licensee occurring [four] six years after the date of issuance of the license unless sooner revoked, suspended, or canceled; provided that, unless sooner revoked, the license shall expire on the second birthday of the licensee following the issuance of the license if at that time the licensee is [sixty-five] seventy-two years of age or older.

(h) When applying for renewal of a commercial driver’s license, the applicant shall complete the application form required by section 286-238, providing updated information and required certifications[, and pass a knowledge test approved by the director]. If the applicant desires to retain a hazardous materials endorsement, the knowledge test for a hazardous materials endorsement shall also be taken and passed.”

SECTION 3. This Act does not affect commercial driver licenses which were issued or renewed before its effective date, which shall expire on the date indicated on the face of the license.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved May 26, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 94**

S.B. NO. 3002

A Bill for an Act Relating to Medical Assistance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§346- Enforcement of contracts.** (a) The director may monitor a health plan’s performance during any contract period.

(b) In addition to any other administrative or judicial remedy, the director may impose civil or administrative monetary penalties not to exceed the maximum amount established by federal statutes and regulations if the health plan: (1) fails to provide medically necessary items and services that are required under law or under contract; (2) imposes upon beneficiaries excess premiums and charges; (3) acts to discriminate among enrollees; (4) misrepresents or falsifies information; (5) violates marketing guidelines; or (6) violates other contract provisions and requirements.

(c) The director may appoint temporary management to oversee compliance efforts if a health plan continues to engage in violations of contract, law or rules, or if there is a substantial risk to the health of enrollees.

(d) Pursuant to chapter 91, the director may adopt and enforce such rules as may be necessary to carry out the purposes of this section.

(e) The director shall notify the insurance commissioner whenever a sanction under this section is contemplated.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved May 26, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 95**

S.B. NO. 3094

A Bill for an Act Relating to Motor Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-47, Hawaii Revised Statutes, is amended to read as follows:

**“§286-47 Certificate of registration; certificate of ownership; containers.** Upon the registration of a vehicle, the director of finance shall issue a certificate of registration to the owner and a certificate of ownership to the legal

owner, or to a dealer who shall be a person licensed to sell new motor vehicles under chapter 437 which certificates shall meet the following requirements:

- (1) Both the certificate of registration and the certificate of ownership shall contain upon the face thereof, the date issued, the registration number assigned to the owner and to the vehicle, the name and address of the owner and legal owner in typewriting, also such description of the registered vehicle as may be determined by the director of finance. If any of the information subsequently proves to be a typographical error, the dealer, as defined in section 437-1.1, shall notify the director of finance of the error by a written certificate stating the reasons for and nature of the error and the correction which should be made in the certificate of registration and the certificate of ownership. Upon receipt of the dealer's certificate by the director of finance, the certificate of registration and the certificate of ownership shall be corrected accordingly so long as the correction does not constitute a change of the vehicle originally registered. A fee shall be paid to the director of finance for each instance of correction of the registration records. The fee charged for each instance of correction of the registration records shall be established by the county's legislative body[.];
- (2) In addition to the requirements provided for in paragraph (1) above, the face of the certificate of ownership shall contain endorsement lines for the transfer of title or interest of the registered owner and legal owner, and the odometer reading of the vehicle on the date of transfer. The reverse side of the certificate of ownership shall contain the application for registration by the transferee[.];
- (3) (A) Every owner shall keep the certificate of registration within the vehicle for which it is registered and shall present the same at the request of a police officer, or in the event the vehicle is a motorcycle, shall carry such certificate in a convenient receptacle attached to the vehicle and which shall be presented at the request of a police officer[.];
  - (B) This shall not apply to state or county vehicles readily identified by the license plates and markings on sides of such vehicles[.];
  - (C) This shall not apply to commercial vehicles defined as rental motor vehicles, or cars shipped by licensed car dealerships or repossession companies. These businesses may keep a duplicate copy of the certificate of registration within the vehicle for which it is registered, in which case the certificate of registration shall be available for inspection at their principal place of business within the State; and
  - [(C)] (D) This requirement to carry the certificate of registration with the vehicle shall not apply when such certificate is removed from the vehicle for the purpose of application for renewal, transfer of registration, or to record a change in the registration."

SECTION 2. Section 286-271, Hawaii Revised Statutes, is amended to read as follows:

**“§286-271 Interisland shipping of vehicles; proof required.** (a) Except as provided in subsection (b), a legal owner of a vehicle shall not ship that vehicle interisland in this State unless the legal owner first presents to the [shipper] carrier the legal owner's current certificate of registration showing that the person is the registered owner of the vehicle, [picture] identification, and [a current motor vehicle insurance identification card for the vehicle.] proof of motor vehicle insurance. If the

registered owner of the vehicle is not the legal owner of the vehicle, the registered owner must present to the [shipper,] carrier, the registered owner's current certificate of registration, identification, the [notarized] written consent of the legal owner thereof to the transportation, and [a motor vehicle insurance identification card.] proof of motor vehicle insurance. Duplicate copies of the current registration and proof of motor vehicle insurance shall be acceptable for commercial vehicles as defined in section 286-47(3)(C). An authorized agent of the legal or registered owner may ship the vehicle by presenting, in addition to the required documents, a notarized letter from the registered or legal owner authorizing the shipment. For an unrecorded owner pending a lawful transfer, a certificate of ownership signed by the previous owner may be substituted for the current certificate of registration for a vehicle purchased within thirty days of shipping. A facsimile of proof of motor vehicle insurance from an insurance company may be accepted for a vehicle purchased within thirty days of shipping. Presentation of [a] proof of motor vehicle insurance [identification card] shall not be required for:

- (1) Unlicensed propelled vehicles that are not intended for on-road use;
- [(2) Vehicles that have been repossessed by a regulated financial institution or vehicles that have been voluntarily surrendered to a regulated financial institution or its designated agent; or
- (3)] (2) New unregistered vehicles shipped with a bill of lading[.]; or
- (3) Vehicles owned by the federal, state, or county government.

(b) A legal owner of a damaged vehicle shall not ship that vehicle interisland in this State for repair, disposal, or salvage unless the legal owner first presents to the [shipper] carrier the legal owner's current certificate of registration showing that the person is the registered owner of the vehicle [and a picture identification,] or a car dealer's license[, or a notarized bill of sale, as applicable, which evidences the vehicle's identification number or serial number]. For an unrecorded owner pending a lawful transfer, a certificate of ownership signed by the previous owner may be acceptable for a vehicle purchased within thirty days of shipping. A registered owner of the vehicle who is not the legal owner of the vehicle must present a current certificate of registration and a [notarized] written consent of the legal owner thereof to the transportation or a car dealer's license[, or a notarized bill of sale, as applicable, which evidences the vehicle's identification number or serial number].

(c) Any legal or registered owner who violates this section shall be fined not more than \$100.

(d) This section shall not apply to licensed dealers who periodically ship in quantities of ten vehicles or more, or whose primary business is the auction of insurance salvage vehicles.''

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 26, 1998.)

A Bill for an Act Relating to Tracking Devices.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Vehicle theft is a significant concern of Hawai'i residents. Every year thousands of vehicles are stolen. While some are used for joyriding and recovered relatively intact, others are destined for the chop shop and are never seen again.

One way in which car owners can protect their vehicles is by the installation of a global positional satellite tracking device. These devices allow a control center to accurately locate a car via satellite. A driver contacts the control center by cellular phone, which then directs the driver to the driver's desired location. It can also be used to locate a stolen car.

Police departments in other jurisdictions use "bait vehicles" to allow them to identify and apprehend car thieves. Formerly they used valuable staff hours to physically monitor the vehicle, but with a global positional satellite device installed, the control center does all the monitoring and notifies the department when the vehicle is moving. Several police departments have reported significant drops in car theft after it becomes known that these devices are in use.

Unfortunately, the installation of these devices on cars in Hawai'i is now a felony. Current law makes persons installing a "tracking device" without a search warrant a class C felony. In 1989, at the time this law was adopted, global positional satellite devices were neither widely known nor used. The only tracking devices that were used were radio transmitters placed in the suspect's car by police, and for which a warrant was appropriate. However, the unduly broad language of the statute now criminalizes behavior that should be permitted.

The purpose of this Act is to permit the consensual installation of tracking devices, and to allow the police to install them in bait vehicles.

SECTION 2. Section 803-41, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Bait vehicle” means any vehicle used by law enforcement to further an investigation of and deter unauthorized entry into a motor vehicle or unauthorized control of propelled vehicles.”

SECTION 3. Section 803-41, Hawaii Revised Statutes, is amended by amending the definition of "tracking device" to read as follows:

““Tracking device” means an electronic or mechanical device which permits the tracking of the movement of a person or object[.], but does not include such a device when installed:

- (1) In a motor vehicle or other vehicle by or with the permission of the owner or person in lawful possession of the motor vehicle or other vehicle for the purpose of tracking the movement of such motor vehicle or other vehicle; or
- (2) By or at the request of a police department or law enforcement agency in a "bait vehicle".”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 26, 1998.)

## ACT 97

S.B. NO. 2866

A Bill for an Act Relating to Personnel for Mental Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 334-4, Hawaii Revised Statutes, is amended to read as follows:

“**§334-4 Personnel for mental health program.** The director [of health] shall appoint professional and nonprofessional staff as the director deems necessary to carry out the state mental health program and for which appropriations are available. Positions for psychiatrists are exempted from chapters 76 and 77. The director may employ psychiatrists as needed by the department [of health] on a contractual basis, subject to the approval of the governor. The director [of health] may appoint an administrator, three associate hospital administrators, a director of psychosocial rehabilitation, a chief of the department of nursing, a risk manager, a patients’ rights advisor, and a facilities plant engineer for the state hospital established pursuant to section 334-31 and these positions shall be exempt from chapters 76 and 77.”

SECTION 2. Section 457G-2, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§457G-2]]~~ **Qualifications of occupational therapists and occupational therapy assistants.** [Occupational] (a) Except as provided in subsection (b), occupational therapists and occupational therapy assistants shall have completed the educational requirements and supervised field work experience required for certification by the American Occupational Therapy Certification Board for the American Occupational Therapy Association, and shall have passed a national certification examination administered by that association.

(b) Occupational therapists and occupational therapy assistants employed in a civil service position with the department of health need not obtain certification by the American Occupational Therapy Certification Board upon the following conditions:

- (1) The person shall have met all the requirements of subsection (a), except for passing the national certification examination administered by the American Occupational Therapy Association; and
- (2) The person shall not be employed in the occupational therapist or occupational therapy assistant position with the department of health for longer than one year without having passed the national certification examination administered by the American Occupational Therapy Association.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval; except that Section 2 of this Act shall be repealed on June 30, 2000, and section 457G-2, Hawaii

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Revised Statutes, is reenacted in the form in which it read on the day before the approval of this Act.

(Approved May 29, 1998.)

## ACT 98

H.B. NO. 92

A Bill for an Act Relating to Motor Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-44, Hawaii Revised Statutes, is amended to read as follows:

**“§286-44 Unlawful to possess certain motor vehicles, parts, etc.; forfeiture.** (a) It shall be unlawful for any person to possess a motor vehicle, a motor block, or any part thereof, knowing that the motor number, serial number, or manufacturer’s number, placed on the same by the manufacturer for the purpose of identification, has been changed, altered, erased, or mutilated, for the purpose of changing the identity of the motor vehicle, motor, motor block, or any part thereof. All such motor vehicles, motor blocks, or parts from which the manufacturer’s identification number has been removed, defaced, or altered shall be forfeited to the county where found and if not identified may be sold at public auction or destroyed. If identified, all persons having an interest in [it] the motor vehicle, motor block, or part shall be notified, there shall be assigned a new registration number, and [it] the motor vehicle, motor block, or part shall be returned to the owner entitled to possession.

(b) The chief of police of each county or officers of the county police who are permanently assigned to conduct vehicle theft investigations may immediately inspect, during normal business hours or whenever the dealer or dealer’s agents or employees are otherwise present, any records required by chapters 286, 289, or 445 and any articles described in such records that the police reasonably believe are stolen goods, limited to the purpose of establishing rightful title or registration of vehicles or identifiable vehicle components in order to determine rightful ownership or possession, on the premises of:

- (1)<sup>1</sup> Any motor vehicle repair dealer registered under chapter 437B; or
- (2)<sup>1</sup> Any person licensed pursuant to sections 289-2 and 289- 3 to engage in the business of purchasing or selling used motor vehicle parts or accessories, or wrecking, salvaging, or dismantling motor vehicles for the purpose of reselling the parts or accessories thereof.

As used in this section, “identifiable vehicle component” means any component of a motor vehicle, including motor block or part that can be distinguished from other similar components by a serial number or other unique distinguishing number, sign, or symbol. Whenever possible, inspections conducted pursuant to this subsection shall be conducted at a time and in a manner so as to minimize any interference with, or delay of, business operations.”

SECTION 2. Section 286-54, Hawaii Revised Statutes, is amended to read as follows:

**“§286-54 Out-of-state vehicle permit.** The owner of a motor vehicle which has been duly registered for the current year in another state or country and in accordance with the laws thereof, may, in lieu of registering the vehicle as otherwise



required by this part, apply to the director of finance for the registration thereof as provided in this section.

The owner shall, within [ten] thirty days after commencing to operate the vehicle or causing or permitting it to be operated within the State, apply to the director of finance for the registration thereof upon the appropriate official form stating therein the name and home address of the owner and the temporary address, if any, of the owner while within the State, the registration number of the vehicle as assigned thereto by the state or country, together with [such] a description of the motor vehicle [as] that may be called for in the form and [such] other statements of facts [as] that may be required by the director of finance.

The director of finance shall file every application received and register the vehicle therein described and shall issue to the owner a registration certificate of a distinctive form containing the date of its issue, a brief description of the vehicle, and a statement that the owner has procured registration of the vehicle.

No owner of a motor vehicle which has been duly registered for the current year in another state or country shall operate any [such] vehicle or cause or permit to be operated upon the public highways, either before or while it is registered under this section, unless there is at all times displayed thereon the current registration number plates assigned to the vehicle by the other state or country, nor unless the certificate of registration is kept within the vehicle for which it is registered, or in the event the vehicle is a motorcycle, carry [such] the certificate of registration in a convenient receptacle attached to the vehicle. The director of finance shall also furnish the owner with an emblem bearing a serial number with the words "VEHICLE PERMIT" and the date of expiration of [such] the emblem to be placed on the rear bumper in plain sight of [such] the vehicle, or when issued to a motorcycle emblem to be placed on rear fender.

Every certificate of registration issued pursuant to this section shall be valid for the unexpired portion of the current license number plates assigned to the vehicle in accordance with the law of the other state or country; provided that in no case shall [such] a certificate be issued to exceed a twelve-month period.

Whenever a vehicle is registered under this section, the sum of \$5 shall be assessed against the owner of the vehicle to defray the administrative costs incurred by the county. Subsequent changes in the amount of the administrative costs shall be established by the county's legislative body."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 3, 1998.)

#### Note

1. Should be underscored.

A Bill for an Act Relating to Pawnbrokers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to assist the police in tracking stolen property, and increase the likelihood of the property being returned to its legal owner.

SECTION 2. Section 486M-2, Hawaii Revised Statutes, is amended to read as follows:

**“§486M-2 Record of transactions.** Every dealer, or the agent, employee, or representative of the dealer shall, immediately upon receipt of any article, record the following information, on a form [prescribed] authorized by the chief of police in each county:

- (1) The name and address of the dealer;
- (2) The name, residence address, date of birth, and the age of the person from whom the article was received;
- (3) The date and time the article was received by the dealer;
- (4) The signature of the person from whom the article was received;
- (5) The Hawaii [drivers] driver's license number, or if the person does not possess a Hawaii [drivers] driver's license, the number of and description of any identification which bears a photograph of the person from whom the article was received;
- (6) A complete and accurate description of the article received, including all markings, names, initials, and inscriptions;
- (7) A reasonable estimate of the fineness and weights of the precious and semiprecious metals and precious and semiprecious gems received; and
- (8) The price paid by the dealer for each article.

[The] Upon request and at the discretion of the chief of police of each county, copies of all completed forms required by this section shall be surrendered [or mailed, upon request and at the discretion of the chief of police of each county], mailed, or electronically inputted and transmitted via modem or by facsimile transmittal to the chief of police or to the chief of police's authorized representative. The method of submittal to the chief of police shall be at the option of the dealer.”

SECTION 3. Section 486M-4, Hawaii Revised Statutes, is amended to read as follows:

**“§486M-4 Minimum retention of items.** (a) No dealer, the dealer's agents, employees, or representatives shall alter, melt, deface, break apart [or], dispose of, or change the character or integrity of the precious or semiprecious metals or precious or semiprecious gems received or purchased for a period of [ten working days] fifteen calendar days in counties with a population of less than 300,000, and thirty calendar days in counties with a population of 300,000 or more after the purchase or possession by the dealer, whichever comes later. Every article received by the dealer, the dealer's agents, employees, or representatives shall be retained by the dealer in the county where received or purchased for a period of [ten working days] fifteen calendar days in counties with a population of less than 300,000, and thirty calendar days in counties with a population of 300,000 or more after the purchase or possession by the dealer, whichever comes later.

(b) At the discretion of the chief of police of each county, the holding period may be reduced to fifteen calendar days; provided that the dealer has computerized record-keeping and transmittal capabilities acceptable to the chief of police or the chief of police's authorized representative.'

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 3, 1998.)

## ACT 100

H.B. NO. 1099

A Bill for an Act Relating to Occupational Therapists.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that full-scale regulation of occupational therapy is not warranted. The practice poses little risk of serious harm to consumers. In Hawaii, there has been no documented evidence of actual harm. Furthermore, adequate private protections for consumers are already in place. Occupational therapists work under orders from the patient's physician and are employed by knowledgeable health care providers. The American Occupational Therapy Association and the National Board for Certification in Occupational Therapy help ensure competent practice. Criminal laws provide additional protection.

The legislature further finds that the State should minimize its allocation of general fund resources to regulate occupational therapy practice, because the benefits of continued regulation are so uncertain and possibly duplicative.

The purpose of this Act is to amend chapter 457G, Hawaii Revised Statutes, the regulatory scheme for occupational therapists and occupational therapy assistants, to institute a simple registration system for occupational therapists.

SECTION 2. Section 457G-1, Hawaii Revised Statutes, is amended to read as follows:

**“[§457G-1] Practice of occupational therapy; qualifications[.]; registration.** (a) No person shall represent, advertise, or announce oneself, either publicly or privately, as an occupational therapist [or as an occupational therapy assistant], nor use, in connection with the person's name or place of business, the words “occupational therapist”, [“occupational therapy assistant”,] “certified occupational therapist”, [“certified occupational therapist assistant”,] “occupational therapist registered”, or the letters “OT”, [“OTA”,] “COT”, [“COTA”,] or “OTR”, or any other words, letters, abbreviations, or insignia indicating or implying that such person is an occupational therapist [or an occupational therapy assistant] unless such person registers the person's name and business address biennially with the department of commerce and consumer affairs in a manner established by rules adopted pursuant to chapter 91, and meets the qualifications of section 457G-2.

(b) The department shall maintain and biennially update a list of the names and business addresses of the occupational therapists who are registered under subsection (a).

**ACT 101**

(c) Nothing in this chapter shall be construed to apply to occupational therapy assistants.”

SECTION 3. Section 26H-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Chapter 467E (Social Workers) shall be repealed on December 31, 2000[.], and chapter 457G (Occupational Therapy Practice) shall be repealed on December 31, 2003.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on January 1, 1999.

(Approved June 3, 1998.)

**ACT 101**

H.B. NO. 1332

A Bill for an Act Relating to the State Water Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 174C-31, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) To prepare the water resources protection and quality plan, the commission shall:

- (1) Study and inventory the existing water resources of the State and the means and methods of conserving and augmenting such water resources;
- (2) Review existing and contemplated needs and uses of water including state and county land use plans and policies and study their effect on the environment, procreation of fish and wildlife, and water quality;
- (3) Study the quantity and quality of water needed for existing and contemplated uses, including irrigation, power development, geothermal power, and municipal uses;
- (4) Identify rivers or streams, or a portion of a river or stream, which appropriately may be placed within a wild and scenic rivers system, to be preserved and protected as part of the public trust. For the purposes of this paragraph, the term “wild and scenic rivers” means rivers or streams, or a portion of a river or stream of high natural quality or that possess significant scenic value, including but not limited to, rivers or streams which are within the natural area reserves system. The commission shall report its findings to the legislature twenty days prior to the convening of each regular legislative session; and
- (5) Study such other related matters as drainage, reclamation, flood hazards, floodplain zoning, dam safety, and selection of reservoir sites, as they relate to the protection, conservation, quantity, and quality of water.

The water resource protection plan shall include, but not be limited to:

- (1) Nature and occurrence of water resources in the State;

- (2) Hydrologic units and their characteristics, including the quantity and quality of available resource, requirements for beneficial instream uses and environmental protection, desirable uses worthy of preservation by permit, and undesirable uses for which permits may be denied;
- (3) Existing and contemplated uses of water, as identified in the water use and development plans of the State and the counties, their impact on the resource, and their consistency with objectives and policies established in the water resource protection quality plan;
- (4) Programs to conserve, augment, and protect the water resource; and
- (5) Other elements necessary or desirable for inclusion in the plan.

Thereafter, the commission in coordination with the counties and the department of health shall formulate an integrated coordinated program for the protection, conservation, and management of the waters in each county based on the above studies. This program, with such amendments, supplements, and additions as may be necessary, shall be known as the water resource protection and quality plan.

Thereafter, each county shall prepare a water use and development plan and the appropriate state agency shall prepare the state water projects plan. The department of agriculture shall prepare a state agricultural water use and development plan for agricultural uses in the State in accordance with chapter 167 and this chapter, and subsequently modify and update the plan as necessary. The state agricultural water use and development plan shall include but not be limited to a master irrigation inventory plan which shall:

- (1) Inventory the irrigation water systems;
- (2) Identify the extent of rehabilitation needed for each system;
- (3) Subsidize the cost of repair and maintenance of the systems;
- (4) Establish criteria to prioritize the rehabilitation of the systems;
- (5) Develop a five-year program to repair the systems; and
- (6) Set up a long-range plan to manage the systems.

The commission shall coordinate the incorporation of the state agricultural water use and development plan into the state water projects plan. Each county water use and development plan shall include but not be limited to:

- (1) Status of water and related land development including an inventory of existing water uses for domestic, municipal, and industrial users, agriculture, aquaculture, hydropower development, drainage, reuse, reclamation, recharge, and resulting problems and constraints;
- (2) Future land uses and related water needs; and
- (3) Regional plans for water developments including recommended and alternative plans, costs, adequacy of plans, and relationship to water resource protection and quality plan.”

SECTION 2. Section 174C-3, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

““Agricultural use” means the use of water for the growing, processing, and treating of crops, livestock, aquatic plants and animals, and ornamental flowers and similar foliage.

“Existing agricultural use” means replacing or alternating the cultivation of any agricultural crop with any other agricultural crop, which shall not be construed as a change in use.”

SECTION 3. Section 174C-46, Hawaii Revised Statutes, is amended to read as follows:

## ACT 102

“**§174C-46 Findings of fact; decision of commission.** After public hearing and any investigations deemed necessary have been completed, the chairperson, after consultation with the appropriate county council and county water board, shall make a recommendation to the commission for decision. The commission shall render its decision within ninety days after the chairperson’s recommendation to the commission. If the commission decides to designate a water management area, it shall cause a public notice of its decision to be given in the appropriate county and when so given, its decision shall be final unless judicially appealed.”

SECTION 4. The chairperson of the board of agriculture shall submit the state agricultural water use and development plan as defined in section 174C-31, Hawaii Revised Statutes, to the legislature no later than twenty days prior to the convening of the regular session of 2000.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 3, 1998.)

## ACT 102

H.B. NO. 1577

A Bill for an Act Relating to Irrigation Water Projects.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 167-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) The board of agriculture shall also have the power to:
- (1) Establish and certify the total amount of acreage assessments to be levied annually and collect the assessments within each project;
  - (2) Set and from time to time revise tolls that it shall charge for the water provided by its facilities, subject to the rate policies established hereunder;
  - (3) Establish priorities between the several lands included in a project according to the use to which the lands are put or other reasonable basis for classification;
  - (4) Govern the furnishing of water in the event of a shortage of supply and to correlate water tolls with these priorities;
  - (5) Charge and collect water tolls, fees, and other charges established in connection herewith;
  - (6) Sell, exchange, transfer, assign, or pledge any property, real or personal, or any interest therein, to any person, firm, corporation, or government, except as prohibited by the laws of the State;
  - (7) Hold, clear, and improve property;
  - (8) Borrow money for any of the purposes hereunder;
  - (9) Insure or provide for the insurance of the property or operations of the board against such risks as the board may deem advisable;
  - (10) Include in any construction contract executed in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum

- hours of labor, and comply with any conditions that the federal government may have attached to its financial aid of the project;
- (11) Delegate to the chairperson or employees of the department, subject to the board's control and responsibility, powers and duties as may be lawful or proper for the performance of the functions vested in the board;
  - (12) Set, charge, and collect interest and a service charge on delinquent payments due on water tolls, acreage assessments, or other related accounts; provided that the rate of interest shall not exceed one per cent per month and the service charge shall not exceed \$7 for each delinquent payment; [and]
  - (13) Collect delinquent acreage assessments in accordance with sections 231-61 to 231-70; provided that the chairperson shall have all of the powers provided to the director of taxation or state tax collector under chapter 231 that may be necessary or convenient to collect delinquent acreage assessments[.];
  - (14) Accept a security interest in real or personal property for a debt restructured under a payment plan for delinquent water tolls, acreage assessments, or other related irrigation project accounts subject to the rate of interest set forth in paragraph (12); and
  - (15) Foreclose upon or otherwise enforce the security interest accepted under paragraph (14) by any method provided for by law and to hold title to, maintain, use, manage, operate, sell, lease, or otherwise dispose of that personal or real property to recover the debt secured."

SECTION 2. Section 171-2, Hawaii Revised Statutes, is amended to read as follows:

**“§171-2 Definition of public lands.** “Public lands” means all lands or interest therein in the State classed as government or crown lands previous to August 15, 1895, or acquired or reserved by the government upon or subsequent to that date by purchase, exchange, escheat, or the exercise of the right of eminent domain, or in any other manner; including submerged lands, and lands beneath tidal waters which are suitable for reclamation, together with reclaimed lands which have been given the status of public lands under this chapter, except:

- (1) Lands designated in section 203 of the Hawaiian Homes Commission Act, 1920, as amended;
- (2) Lands set aside pursuant to law for the use of the United States;
- (3) Lands being used for roads and streets;
- (4) Lands to which the United States relinquished the absolute fee and ownership under section 91 of the Hawaiian Organic Act prior to the admission of Hawaii as a state of the United States unless subsequently placed under the control of the board of land and natural resources and given the status of public lands in accordance with the State Constitution, the Hawaiian Homes Commission Act, 1920, as amended, or other laws;
- (5) Lands to which the University of Hawaii holds title;
- (6) Lands to which the housing and community development corporation of Hawaii in its corporate capacity holds title;
- (7) Lands to which the Hawaii community development authority in its corporate capacity holds title;
- [[ (8) ]] Lands to which the department of agriculture holds title by way of foreclosure, voluntary surrender, or otherwise, to recover moneys

loaned[;] or to recover debts otherwise owed the department under chapter 167; and

[[](9)[]] Lands which are set aside by the governor to the Aloha Tower development corporation; lands leased to the Aloha Tower development corporation by any department or agency of the State; or lands to which the Aloha Tower development corporation holds title in its corporate capacity.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 3, 1998.)

**ACT 103**

H.B. NO. 1649

A Bill for an Act Relating to Perjury.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 231-36, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any person who wilfully makes and subscribes any return, statement, or other document required to be made under title 14, except chapter 238, which contains or is verified by a written declaration that [is made under the penalties of perjury,] it is true and correct as to every material matter, and which the person does not believe to be true and correct as to every material matter shall be guilty of a class C felony and, upon conviction thereof, shall be fined not more than \$100,000 or imprisoned not more than three years, or both; provided that a corporation shall be fined not more than \$500,000[.]; and provided further that, if the person wilfully makes and subscribes any return, statement, or other document required to be made under chapter 238, which contains or is verified by a written declaration that it is true and correct as to every material matter and which the person does not believe to be true and correct, then the person shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$2,000, or imprisoned not more than one year, or both.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 3, 1998.)



## ACT 104

H.B. NO. 1699

A Bill for an Act Relating to the Hawaii Capital Loan Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the business loan programs administered by the department of business, economic development, and tourism play a significant role in assisting businesses that have no other source of financing, and result in expanding our economic base.

The legislature further finds that businesses would benefit from access to state loan guarantees and increased availability of venture capital.

The purpose of this Act is to:

- (1) Expand the financing capabilities of the department by establishing a loan guarantee program which complements other governmental loan guarantee programs and which provide support to industries in Hawaii that contribute to the growth or diversification of the State's economic base; and
- (2) Allow transfers of funds between the capital loan revolving fund and the venture capital investment fund administered by the Hawaii strategic development corporation.

These changes will result in greater access to growth capital for Hawaii businesses.

SECTION 2. Chapter 210, Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read as follows:

**“§210- Loans guaranteed by the department.** (a) The department may guarantee up to ninety per cent of the principal balance of a loan made to a qualified small business concern by a private lender who is unable to otherwise lend the applicant sufficient funds at reasonable rates; provided that at no time shall the aggregate amount of the State's liability, contingent or otherwise, on loans guaranteed under this section exceed \$10,000,000 based on a reserve level established at twenty-five per cent of the loan guarantee amount, with the reserve amount to be funded being calculated by determining the difference between the capital loan revolving fund balance at the beginning of each fiscal year and its annual authorization ceiling, excluding capital loan balances allocated to underground storage tank projects.

(b) Loans guaranteed under this section shall be limited by section 210-6, except that through regulation, the department may specify:

- (1) That loan guarantees are to be limited to businesses in industries identified by rule as offering significant potential contributions to the growth or diversification of the State's economic base;
- (2) The conditions under which the State may become a co-guarantor or a subordinate guarantor to a loan guarantee offered by a federal government program; and
- (3) The specific types of loans that may be guaranteed under this program, consistent with paragraph (1), including product export financing, contract order-based loans, and processing plant or factory loans.

(c) Interest charged on a guaranteed loan made under this section shall be determined by the department based on the market rate of interest charged by the private lender for a similar type of loan unless waived by the director.

(d) When the application for a guaranteed loan has been approved by the department, the department shall issue to the lender a guaranty for that percentage of

## ACT 104

the loan on which it guarantees payment of principal and interest. The lender shall collect all payments from the borrower and otherwise service the loan.

(e) In return for the department's guaranty, the lender shall remit a one-time fee of two per cent on the principal amount of the guaranteed portion of the loan, at the time the loan is booked, except for the following:

- (1) On loans of \$75,000 or less with a maturity exceeding twelve months, a reduced fee of one per cent; and
- (2) On loans with a maturity of twelve months or less, a reduced fee of one per cent shall be paid.

This fee may be paid by the borrower as a cost for the loan.

(f) When any installment of principal and interest has been due for sixty days and has not been paid by the borrower, the department shall issue, on request of the lender, a check for the percentage of the overdue payment guaranteed, thereby acquiring a division of interest in the collateral pledged by the borrower in proportion to the amount of the payment. The department shall be reimbursed for any amounts so paid plus the applicable interest rate, where payment is collected from the borrower.

(g) Under conditions specified in rules adopted by the department, the lender may request that a portion or all of the guaranteed percentage of the principal balance of the loan be converted to a participating share held by the department.

(h) Should the lender deem that foreclosure proceedings are necessary to collect moneys due from the borrower, it shall so notify the department. Within thirty days of the notification, the department may elect to request an assignment of the loan on payment in full to the lender of the principal balance and interest due. Foreclosure proceedings shall be held in abeyance in the interim.

(i) The lender may reduce the percentage of the principal balance guaranteed under this section at any time."

SECTION 3. Chapter 210-3, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) There is established the Hawaii capital loan revolving fund into which shall be deposited all moneys received as repayment of loans and interest payments as provided in this chapter. The department may transfer moneys from the Hawaii capital loan revolving fund established by this section to [either] the state disaster revolving loan fund established by section 209-34, [or] the Hawaii innovation development fund established by section 211E-2, or the Hawaii strategic development corporation fund established by chapter 211F, and moneys from these [three] funds shall be disbursed by the department or the director pursuant to chapters 209, 210, [and] 211E, and 211F, respectively. The department or the director may transfer moneys from the state disaster revolving loan fund and the Hawaii innovation development fund to the Hawaii capital loan revolving fund for disbursement pursuant to this chapter.

(b) The total amount of moneys transferred to the state disaster revolving loan fund, the Hawaii capital loan revolving fund, or the Hawaii innovation development fund shall not exceed \$1,000,000 for each respective fund within the calendar year. Any transfers to or from the Hawaii strategic development corporation fund shall be approved by the corporation's board of directors."

SECTION 4. Section 210-6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Except as may be expressly provided otherwise for loans made under subsection (b), the foregoing powers shall be subject to the following restrictions and limitations:

- (1) No loans shall be granted unless financial assistance is not available to the applicant. The condition may be waived by the director for participation loans or loan guarantees with a private financial institution;
- (2) The amount of the loan or loans to any one applicant at any one time shall in no case exceed a total of \$1,000,000;
- (3) No loan shall be made for a term exceeding twenty years;
- (4) [Each] Within counties of population exceeding 150,000, each loan shall bear simple interest at a rate of one per cent below the prime rate or at a rate of seven and one-half per cent a year, whichever is lower. For purposes of this paragraph, the prime rate shall be determined on January 1 and July 1 of each year, and shall be the rate charged by the two largest banks in the State [of Hawaii] identified by the department of commerce and consumer affairs. Should there be a difference in rate charged by the institutions, the lower of the two shall be utilized;
- (5) The commencement date for the repayment of the first installment on the principal of each loan may be deferred by the director, but in no event shall such initial payment be deferred in excess of five years; and
- (6) The payment of interest on the principal of a loan may be deferred by the director, but in no event shall interest payments be deferred in excess of two years from the date of issuance of the loan.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect on July 1, 1998; provided that section 4 of this Act shall be repealed on June 30, 2000, and section 210-6(c), Hawaii Revised Statutes, is reenacted as it appeared on July 2, 1996.

(Approved June 3, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 105**

H.B. NO. 1830

A Bill for an Act Relating to Emergency Medical Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§321- **Volunteer emergency medical disaster response personnel.** (a) All volunteer emergency medical disaster response personnel including:

- (1) Physicians;
- (2) Psychologists;
- (3) Nurses;
- (4) Emergency medical technicians;
- (5) Social workers; and
- (6) Mobile intensive care technicians

licensed in the State, or employed by a health care facility, while engaged in the emergency response to a mass casualty event or disaster condition, including participation during periods of mass casualty and disaster management training, shall be deemed state employees or county employees, as the case may be, and shall have the powers, duties, rights, and privileges of such in the performance of their duties as prescribed by or under the authority of the governor or a county.

(b) For the purposes of this section, any physician licensed in the State having privileges and credentials at public or private health care facilities licensed in the State, shall be deemed as having credentials with the same medical staff privileges at other hospitals for the purpose of rendering professional medical care under a mass casualty or disaster condition.

(c) In the case of injury or death arising out of and in the performance of duty pursuant to this section, including duty performed during periods of training, all volunteer emergency medical disaster response personnel and their dependents shall be entitled to all of the benefits provided in chapter 386, including medical services and supplies. In the case of injury or death, no public official shall be excluded from coverage of chapter 386. Benefits shall be based on average weekly wages set forth in section 386-51, or based on earnings from the usual employment of the person, or based on earnings at the rate of \$20 a week, whichever is most favorable to the claimant. Nothing in this section shall adversely affect the right of any person to receive any benefits or compensation under any act of Congress.

(d) Except in cases of wilful misconduct, the State, any county, or any volunteer emergency medical disaster response personnel engaged in the emergency response to a mass casualty event or disaster condition pursuant to this section (including volunteers whose services are accepted by any authorized person), shall not be liable for the death of or injury to persons, or for damage to property, as a result of any act or omission in the course of rendering professional medical care under a mass casualty event or disaster condition. No act or omission shall be imputed to the owner of any vehicle by reason of ownership thereof; provided that nothing in this section shall preclude recovery by any person for injury or damage sustained from the operation of any vehicle that may be insured under section 41D-8 to the extent of the insurance. Unless specifically provided, insurance effected under section 41D-8 shall not include coverage of such risk during a disaster emergency period.

(e) For the purposes of this section:

“Disaster condition” means a sudden catastrophic event that overwhelms natural order and causes loss of property or life and exceeds or disrupts the capabilities of available medical resources to receive and provide medical care within a community.

“Mass casualty event” means a number of casualties generated more or less simultaneously, that exceeds the ability to provide usual medical care including but not limited to an airplane crash, collapsed building, bombing, or hurricane.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved June 3, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 106

H.B. NO. 1868

A Bill for an Act Relating to the Hawaii Hurricane Relief Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431P-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Year immediately preceding the year of the covered event” means the twelve-month period ending on the last day of the calendar month immediately preceding the month in which a covered event occurs.”

SECTION 2. Section 431P-1, Hawaii Revised Statutes, is amended by amending the definitions of “eligible property” and “policy of hurricane property insurance” to read as follows:

““Eligible property” means:

- (1) Real property of one to four units used for residential purposes and which is in insurable condition, and which may include tangible personal property located therein or thereon[,] and other structures at the insured location, as provided in the plan of operation or any manual of rules and rates adopted under the plan of operation;
- (2) Real property used for business, commercial, or industrial purposes which is in insurable condition, and which may include tangible personal property[,] located therein or thereon, as provided in the plan of operation or any manual of rules and rates adopted under the plan of operation;
- (3) Tangible personal property owned by an occupant of and located in or on real property of the types described in paragraph (1)[;], as provided in the plan of operation or any manual of rules and rates adopted under the plan of operation; provided that the owner of the tangible personal property does not own the real property in or on which the tangible personal property is located; and
- (4) Tangible personal property owned by an occupant of and located in or on real property of the types described in paragraph (2) [at the discretion of the fund and] as provided in the plan of operation or any manual of rules and rates adopted under the plan of operation; provided that the owner of the tangible personal property does not own the real property in or on which the tangible personal property is located.

“Policy of hurricane property insurance” means a policy or endorsement of insurance issued by the fund insuring only against damage or loss to eligible property caused by a covered event in excess of the deductible and up to:

- (1) \$750,000 per risk on real property of one to four units used for residential purposes and the personal property located therein or thereon[;] and other structures at the insured location, subject to the limits defined by the plan of operation or any manual of rules and rates adopted under the plan of operation; and
- (2) \$500,000 per risk on real and personal property used for business, commercial, or industrial purposes, subject to the limits defined by the plan of operation[;] or any manual of rules and rates adopted under the plan of operation; provided that the board may designate an association of property owners or cooperative housing corporation to be a commercial risk;

provided that this policy or endorsement shall not include coverage for business interruption and other similar coverages.”

SECTION 3. Section 431P-3, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

“(h) The board may appoint, not subject to chapters 76 and 77, an executive director of the fund whose salary shall be set by the board. The board may employ, not subject to chapters 76 and 77, technical experts and officers, agents, and employees, permanent or temporary, as required. The board may also contract with persons, not subject to chapters 76, 77, and 78 when in the determination of the board, the services to be performed are unique and essential to the execution of the functions of the fund[; provided that no individual contract shall be for a period longer than two years per term].”

SECTION 4. Section 431P-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In addition to the general powers under subsection (a), the fund shall have the specific power to:

- (1) Adopt and administer a plan of operation in accordance with section 431P-7, and a manual of rules and rates to provide persons having an insurable interest in eligible property with insurance coverage provided by the fund;
- (2) Authorize the provision of hurricane coverage by the fund for real property and tangible personal property located in or on real property [used for business, commercial, or industrial purposes] and establish limits of liability for specific coverages within the range of authorized coverage;
- (3) Adopt actuarially sound rates based on reasonable assumptions relative to expectations of hurricane frequency and severity for all coverage provided under policies or endorsements issued by the fund. Rates adopted shall be subject to approval by the commissioner pursuant to article 14 of chapter 431. Rates adopted shall provide for classification of risks and shall include past and prospective losses and expense experience in this State;
- (4) Adopt procedures, guidelines, and surcharges applicable to policies of hurricane property insurance issued in connection with an underlying property policy issued by an unauthorized insurer;
- (5) Adopt any form of insurance policy necessary for providing policies of hurricane property insurance by the fund, with the approval of the commissioner;
- (6) Issue policies of hurricane property insurance and pay claims for coverage over the mandatory deductible[;] or other deductible provided in the plan of operation or any manual of rules and rates adopted under the plan of operation;
- (7) Require every licensed property and casualty insurer transacting direct property insurance business in this State to act as a servicing facility, and by contract with that insurer authorize the insurer to inspect eligible properties, service policies and policyholders of hurricane property insurance, provide claim services, and perform any other duties as authorized by the fund for applicants to the fund and those insured by it;
- (8) (A) Assess all licensed property and casualty insurers the amounts which, together with the other assets of the fund, are sufficient to

- meet all necessary obligations of the fund. The assessment shall be made on the insurer's gross direct written premiums for property and casualty insurance in this State for the preceding calendar year. The rate of assessment in a year in which a covered event has not occurred shall be 3.75 per cent and shall not include the insurer's gross direct written premiums for motor vehicle insurance in this State; provided that following a covered event, the rate of assessment may be increased to an amount not to exceed five per cent and may include the insurer's gross direct written premiums for motor vehicle insurance in this State. This increase shall remain in effect until such time as all claims and other obligations, including but not limited to bonds and notes, arising out of a covered event shall have been fully discharged. An insurer authorized to provide comparable coverage under section 431P-10(b) and which is providing hurricane property insurance in the State shall be assessed an amount that excludes gross direct written premiums for property insurance in this State. The assessment for a year in which a covered event has not occurred shall be collected quarterly during each calendar year.
- (B) In the event of a loss from a covered event the fund, in addition to the assessment in subparagraph (A), shall assess those insurers which acted as servicing facilities during the year immediately preceding the year of the covered event. The total assessment shall be based on the proportion of the gross direct written premiums from companion policies together with the total fund gross direct written premium from policies of hurricane property insurance of the insurers that acted as servicing facilities to the total gross direct written premium from policies of property insurance written by all licensed property and casualty insurers, whether acting as servicing facilities or not, and [including] by any other insurer acting as a servicing facility, together with the total fund gross direct written premium from policies of hurricane property insurance, in each case, during the year immediately preceding the year of the covered event. Premiums from policies of property insurance [under this subparagraph] for hurricane losses in excess of coverage provided by the fund's policies of hurricane property insurance shall be considered non-assessable premium for purposes of determining this assessment. However, in no event shall the total assessment for a covered event exceed \$500,000,000 in the aggregate and be less than an amount established by the board; provided that a separate assessment shall be made for each covered event. The total assessment shall be allocated to each servicing facility based on the amount of the fund's gross direct written premiums for policies of hurricane property insurance serviced by each servicing facility in proportion to the total amount of the fund's gross direct written premiums for policies of hurricane property insurance. Assessments made under this subparagraph and those under subparagraph (A) in a year in which a covered event has occurred are due from each insurer based on assessment procedures established by the fund together with its servicing facilities to meet its obligations to policyholders in a timely manner.
- (C) The fund may exempt or defer, in whole or in part, the assessment of any insurer if the assessment would cause the insurer's

financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority [by this jurisdiction;] in this State;

- (9) Develop a program of incentives to encourage insurers to provide policies of hurricane property insurance in the event the commissioner authorizes the provision of comparable insurance pursuant to section 431P-10(b) which may include, but are not limited to, exemption of the insurer's gross direct written premium for property insurance from the assessment pursuant to paragraph (8)(A);
- (10) Develop a credit based on the difference between premiums written in 1993 and the premiums written in 1992 by each property insurer against the assessment for gross direct written premiums written in 1993;
- (11) Develop procedures regarding policies written by unauthorized insurers comparable to the assessments, surcharges, and other contributions made by insurers authorized to do business in this State;
- (12) Accumulate reserves or funds, including the investment income thereon, to be used for paying expenses, making or repaying loans or other obligations of the fund, and paying valid claims for covered events insured by the fund;
- (13) Collect and maintain statistical and other data as may be required by the commissioner;
- (14) Exempt mortgage transactions from payments of the special mortgage recording fee and provide for [equitable assessment] maximum limits on or uniform reduction of the special mortgage recording fee, pursuant to rules adopted by the board[. The adoption of or amendments to such rules shall be subject to chapter 91; and];
- (15) Impose fines for each incident of nonpayment of amounts due to the fund under this chapter; provided that the fines shall not exceed twenty-five per cent of the amount then due; and
- (16) Perform any and all acts reasonably necessary to carry out the purposes of this chapter."

SECTION 5. Section 431P-11, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The fund shall renew any policy provided payment of the applicable renewal premium is received by the fund on or before the expiration date stated in the policy. The fund may nonrenew a policy on the grounds the property is no longer covered by [an underlying policy of property insurance.] a companion policy. The policy issued by the fund shall not provide coverage in the event that there is no [underlying policy of property insurance] companion policy at the time of loss. In such case, any unearned premiums shall be returned to the policyholder on a pro rata basis. Limits of coverage under a policy issued by the fund shall not exceed the limits of comparable coverages for fire and windstorm under the companion policy. The statute of limitations for actions under a policy of hurricane property insurance shall be one year.”

SECTION 6. Section 431P-14, Hawaii Revised Statutes, is amended to read as follows:

“**[§431P-14] Immunity and limitation on liability.** There shall be no liability on the part of, and no cause of action of any nature shall arise against, any servicing facility[:]; or its authorized insurance agents; the fund or its agents,



employees, or [its] board; the State; the commissioner; or the commissioner's representatives for any action taken by them in the performance of their powers and duties under this chapter; provided that this section shall not be construed to prohibit any exercise of the commissioner's power pursuant to this chapter or any other law or rule adopted pursuant to law[,] or chapters 661 and 662, [and] any other law to the contrary notwithstanding. Nothing in this chapter shall create an obligation, debt, claim, cause of action, claim for relief, charge, or any other liability of any kind whatsoever in favor of any person or entity without regard to whether that person or entity received any benefits under this chapter, against the State, or its officers and employees. The State and its officers and employees shall not be liable for the results of any application, denial of application, claim, loss, or other benefits provided by the fund pursuant to this chapter. Nothing in this chapter shall be construed as authorizing any claim against the State whatsoever, nor shall this chapter be construed as authorizing any claim against the fund in excess of any note, loan, liability, or other obligation incurred by the fund. Nothing in this section shall be construed to alter any obligation to pay assessments or charges authorized to be imposed or levied by the board pursuant to this chapter. The fund shall be subject to chapter 431 only as provided for in this chapter.'

SECTION 7. Section 431P-16, Hawaii Revised Statutes, is amended to read as follows:

**“§431P-16 Establishment of trust funds.** (a) The fund shall establish outside the state treasury a hurricane reserve trust fund and any accounts thereunder and any other trust fund or account necessary to carry out the purposes of this chapter. Moneys deposited in the hurricane reserve trust fund and any accounts thereunder or any other trust fund or account shall be held by the fund, as trustee, in a depository as defined in section 38-1 or according to a similar arrangement at the discretion of the board, including, but not limited to, trust or custodial accounts created for the benefit of the fund's secured parties under contractual claims financing arrangements. These moneys may be invested and reinvested in accordance with the plan of operation. Disbursements from the trust funds shall not be subject to chapter 103D and shall be made in accordance with procedures adopted by the board.

(b) The hurricane reserve trust fund shall receive deposits of the special mortgage recording fee established by this chapter. The special mortgage recording fee shall be imposed on each mortgage and each amendment to a mortgage which, in each case, increases the principal amount of the secured debt and which is recorded in the bureau of conveyances of the State under chapter 502 or filed with the assistant registrar of the land court of the State under chapter 501.

The special mortgage recording fee shall be an amount equal to one-tenth of one per cent of the stated principal amount of the debt secured by the mortgage or, in the case of an amendment [of] or refinancing of a mortgage, an amount equal to one-tenth of one per cent of the amount of the increase of the stated principal amount of the secured debt[, if any.]; provided that the board may establish a lower special mortgage recording fee amount pursuant to section 431P-5(b)(14). With respect to an open end revolving loan, the principal amount of the debt on which the special mortgage recording fee is calculated shall be the maximum amount which may be outstanding under the loan at any one time. With respect to a mortgage securing a nonmonetary or inchoate obligation, the principal amount of the debt on which the special mortgage recording fee is calculated shall be the monetary amount which the mortgagee attributes to the obligation. If the debt is stated in a foreign currency, it shall be converted to U.S. dollars using an exchange rate published in a newspaper

of general circulation in this State within one week prior to recordation of the mortgage or amendment of mortgage.

The special mortgage recording fee shall be in addition to any applicable fees under chapter 501 or 502. The special mortgage recording fee shall be submitted to and collected by the bureau of conveyances or the assistant registrar of the land court of the State and shall be deposited into the hurricane reserve trust fund. The special mortgage recording fee shall be submitted at the time the mortgage or amendment of mortgage is recorded together with any related forms or certifications required by the bureau of conveyances or the assistant registrar of the land court of the State.

(c) The Hawaii hurricane relief fund shall implement the assessments of all property and casualty insurers as authorized by section 431P-5(b)(8)(A) and (B) and the proceeds from the assessments shall be deposited into the hurricane reserve trust fund[,] or into trust or custodial accounts, created for the benefit of the fund's secured parties, that are held inside or outside the hurricane reserve trust fund.

(d) If the Hawaii hurricane relief fund offers to issue policies of hurricane property insurance, the premiums for the policies shall be deposited into the hurricane reserve trust fund.

(e) Should the moneys in the hurricane reserve trust fund be insufficient to pay claims arising out of a covered event, the Hawaii hurricane relief fund is authorized to levy a surcharge not to exceed seven and one-half per cent a year on premiums charged for all property and casualty insurance policies issued for risks insured in this State. These moneys may be [used for purposes as directed by the board, including but not limited to the payment of interest and principal on re-insurance or other similar financial arrangements and bonds or notes issued pursuant to this chapter.] deposited into the hurricane reserve trust fund or into trust or custodial accounts, created for the benefit of the fund's secured parties, that are held inside or outside the hurricane reserve trust fund. The formula to calculate the amount and period of the surcharge and the procedures and methodology for payment of claims during periods of insufficiency of moneys for such purpose shall be provided in the plan of operation. The amount and reason for any surcharge made pursuant to this subsection shall be separately stated on any billing sent to an insured. The surcharge shall not be considered premiums for any other purpose, including the computation of gross premium tax or the determination of agents' commissions.

(f) Any proceeds, experience refunds, or other return funds under re-insurance [or other similar financial arrangements] shall be deposited into the hurricane reserve trust fund.

(g) Any proceeds from loans or other moneys from the federal government, any proceeds from bonds [or notes] issued pursuant to this chapter loaned by the director to the Hawaii hurricane relief fund, and other moneys as the State may make available from time to time shall be deposited into the hurricane reserve trust fund.

(h) Moneys in the hurricane reserve trust fund or in trust or custodial accounts, created for the benefit of the fund's secured parties, shall be expended by the Hawaii hurricane relief fund or its authorized designee and used solely for the purposes of this chapter.

(i) [Upon] Solely upon dissolution of the Hawaii hurricane relief fund, the net moneys in the hurricane reserve trust fund shall revert to the state general fund, after any payments by the fund on behalf of licensed property and casualty insurers or the State that are required to be made pursuant to any federal disaster insurance program enacted to provide insurance or reinsurance for hurricane risks. In the event such moneys are paid on behalf of licensed property and casualty insurers, payment shall be made in proportion to the premiums from policies of hurricane property insurance serviced by the insurers in the twelve months prior to dissolution of the fund."

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval.

(Approved June 3, 1998.)

## ACT 107

H.B. NO. 2331

A Bill for an Act Relating to Condominium Property Regimes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 514A-95.1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each condominium project or association of apartment owners having six or more apartments shall:

- (1) Secure a fidelity bond in an amount equal to \$500 multiplied by the number of apartments, to cover all officers, directors, employees, and managing agents of the association of apartment owners who handle, control, or have custody of the funds of the association of apartment owners; provided that the amount of the fidelity bond required by this subsection shall not be less than \$20,000 nor greater than \$100,000. The fidelity bond shall protect the association of apartment owners against fraudulent or dishonest acts by persons, including any managing agent, handling the funds of the association of apartment owners. An association of apartment owners shall act promptly and diligently to recover from the fidelity bond required by this section. An association of apartment owners that is unable to obtain a fidelity bond may seek approval for an exemption or a bond alternative from the commission. The commission shall adopt rules establishing the conditions and terms for which it may grant an exemption or a bond alternative, or permit deductibles. Failure to obtain or maintain a fidelity bond in compliance with this chapter and the rules adopted pursuant thereto, including failure to provide current evidence of the fidelity bond coverage in a timely manner to the commission, shall result in non-registration or the automatic termination of the registration, unless an approved exemption or a bond alternative is presently maintained. Current evidence of a fidelity bond includes a certification statement from an insurance company registered with the department of commerce and consumer affairs certifying that the bond is in effect and meets the requirement of this section and the rules adopted by the commission;
- (2) Register with the commission through approval of a completed registration application, payment of fees, and submission of any other additional information set forth by the commission. Beginning June 30, 1997, the registration shall be for a biennial period with termination on June 30 of an odd-numbered year. The commission shall prescribe a deadline date prior to the termination date for the submission of a completed reregistration application, payment of fees, and any other additional information set forth by the commission. Any condominium project or association of apartment owners that has not met the submission requirements by the deadline date shall be considered a new

applicant for registration and subject to initial registration requirements. Any new condominium project or association of apartment owners shall register within thirty days of the association of apartment owners' first meeting. If the association of apartment owners has not held its first meeting and it is at least one year after the recordation of the purchase of the first apartment in the condominium project, the developer or developer's affiliate or the managing agent shall register on behalf of the unorganized association of apartment owners and shall comply with this section, except the fidelity bond requirement for association of apartment owners. The public information required to be submitted on any completed application form shall include but not be limited to evidence of and information on fidelity bond coverage, names and positions of [those persons who handle the association of apartment owners' funds,] the officers of the association, the name of the association of apartment owners' managing agent, if any, the street and the postal address of the condominium[, and the names, addresses, and phone numbers of the officers of the association of apartment owners, of which one shall be designated as the public contact person for the association of apartment owners;], and the name and current mailing address of a designated officer of the association of apartment owners where the officer can be contacted directly;

- (3) Pay a nonrefundable application fee and, upon approval, an initial registration fee and subsequently pay a reregistration fee, and the condominium management education fund fee, as provided in rules adopted by the director of commerce and consumer affairs pursuant to chapter 91;
- (4) Register or reregister and pay the required fees by the due date. Failure to register or reregister or pay the required fees by the due date shall result in the assessment of a penalty equal to the amount of the registration or reregistration fee; and
- (5) Report immediately in writing to the commission any changes to the information contained on the registration or reregistration application, the evidence of the fidelity bond, or any other documents set forth by the commission. Failure to do so may result in termination of registration and subject the condominium project or the association of apartment owners to initial registration requirements.’’

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 3, 1998.)

## ACT 108

H.B. NO. 2778

A Bill for an Act Making an Emergency Appropriation for Legal Services for Department of Hawaiian Home Lands Individual Claims Review.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

SECTION 2. Act 328, Session Laws of Hawaii 1997, appropriated \$216,182 in general funds to the department of the attorney general to defend the department of Hawaiian home lands' interests in the review of individual claims brought pursuant to chapter 674, Hawaii Revised Statutes, for only eight months of fiscal year 1997-1998.

A critical funding emergency exists. The Hawaiian home lands trust individual claims review panel ("Panel"), the body which receives and reviews claims of individual native Hawaiian beneficiaries for actual damages, is authorized to continue to process claims until December 31, 1999. The Hawaiian claims office, of which the Panel is a part, is funded until June 30, 1998. However, the appropriation for the department of the attorney general will be completely expended by the end of February 1998. Without additional appropriations from the general fund, the department of the attorney general will be unable to continue its defense of the department of Hawaiian home lands' interests in the claims review process after February 28, 1998.

The purpose of this Act is to appropriate additional general fund moneys to allow the department of the attorney general to continue its legal representation of the department of Hawaiian home lands under chapter 674, Hawaii Revised Statutes, for the period March 1, 1998, through June 30, 1998.

SECTION 3. There is appropriated out of the general fund of the State of Hawaii the sum of \$94,216, or so much thereof as may be necessary for fiscal year 1997-1998, for the purposes of this Act.

SECTION 4. The sum appropriated shall be expended by the department of the attorney general.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 3, 1998.)

## ACT 109

H.B. NO. 2760

A Bill for an Act Relating to Salary Periods.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 78-13, Hawaii Revised Statutes, is amended to read as follows:

**"§78-13 Salary periods.** (a) Unless otherwise provided by law, all officers and employees shall be paid at least semimonthly except that substitute teachers,

part-time hourly rated teachers of adult and evening classes, and other part-time, intermittent, or casual employees may be paid once a month and that the governor, upon reasonable notice and upon determination that the payroll payment basis should be converted from predicted payroll to after-the-fact payroll, may allow a one-time once a month payroll payment to all public officers and employees to effect a conversion to after-the-fact payroll as follows:

- (1) The implementation of the after-the-fact payroll will commence with the June 30, 1998, pay day, which will be delayed to July 1, 1998;
- (2) The July 15, 1998, pay day will be delayed to July 17, 1998;
- (3) The July 31, 1998, pay day will be delayed to August 3, 1998;
- (4) The August 14, 1998, pay day will be delayed to August 19, 1998;
- (5) The August 31, 1998, pay day will be delayed to September 4, 1998;
- (6) The September 15, 1998, pay day will be delayed to September 18, 1998; and
- (7) Thereafter, pay days will be on the fifth and the twentieth of every month. If the fifth and the twentieth fall on a state holiday, Saturday, or Sunday, the pay day will be the immediately preceding weekday.

The implementation of the after-the-fact payroll shall not be subject to negotiation under chapter 89.

(b) If an employee has been working for the State for at least six months, has no paid leave accumulated, and has an existing salary overpayment balance:

- (1) The employee may be paid the employee's salary on the same pay dates and for the same pay periods as non-salaried employees.
- (2) Upon accumulation of eighty hours of paid leave, the employee shall be paid the employee's salary on the same pay dates and for the same pay periods as salaried employees.

(c) If an employee has been working for the State for at least six months and has had at least two incidents of leave which results in salary overpayment within the past six months:

- (1) The employee may be paid the employee's salary on the same pay dates and for the same pay period as non-salaried employees.
- (2) If there are no incidents of leave which result in salary overpayment for a subsequent four-month period, the employee shall be paid the employee's salary on the same pay dates and for the same pay periods as salaried employees.

(d) The implementation of subsections (b) and (c) shall not be subject to negotiation under chapter 89."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect on June 29, 1998.

(Approved June 5, 1998.)

**ACT 110**

H.B. NO. 2761

A Bill for an Act Relating to Salary Payments to New Employees.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to allow the comptroller to pay all new employees by electronic funds transfer unless another method has been determined by the comptroller to be appropriate and to allow the comptroller to pay all

new employees on the same pay dates and for the same periods as non-salaried employees.

SECTION 2. Section 40-53, Hawaii Revised Statutes, is amended to read as follows:

**“§40-53 Salary and pension [warrants.] payments.** (a) All [warrants] payments for permanent settlements, specific and all other salaries, excepting that of the comptroller and deputy comptroller, shall be drawn by the comptroller, payable to each individual to whom the State is directly indebted, except as provided for in section 40-58[, and the warrants shall be receipted for]. No permanent settlements nor salary [warrants] checks shall be paid by the director of finance until the person in whose favor the [warrant] check is drawn shall have indorsed the person’s signature thereon. The salaries of the comptroller and deputy comptroller shall be paid by the director when due as in this chapter provided upon [warrants] checks approved by the governor.

(b) All employees hired on or after July 1, 1998, shall designate a financial institution account into which the State is authorized to deposit the employee’s pay. The comptroller may waive the requirements of this section for any state employee upon request by the head of the employing department under policies prescribed by the comptroller. The implementation of this section shall not be subject to negotiation under chapter 89.”

SECTION 3. Section 78-13, Hawaii Revised Statutes, is amended to read as follows:

**“§78-13 Salary periods.** (a) Unless otherwise provided by law, all officers and employees shall be paid at least semimonthly except that substitute teachers, part-time hourly rated teachers of adult and evening classes, and other part-time, intermittent, or casual employees may be paid once a month and that the governor, upon reasonable notice and upon determination that the payroll payment basis should be converted from predicted payroll to after-the-fact payroll, may allow a one-time once a month payroll payment to all public officers and employees to effect a conversion to after-the-fact payroll as follows:

- (1) The implementation of the after-the-fact payroll will commence with the June 30, 1998, pay day, which will be delayed to July 1, 1998;
- (2) The July 15, 1998, pay day will be delayed to July 17, 1998;
- (3) The July 31, 1998, pay day will be delayed to August 3, 1998;
- (4) The August 14, 1998, pay day will be delayed to August 19, 1998;
- (5) The August 31, 1998, pay day will be delayed to September 4, 1998;
- (6) The September 15, 1998, pay day will be delayed to September 18, 1998; and
- (7) Hereafter, pay days will be on the fifth and the twentieth of every month. If the fifth and the twentieth fall on a state holiday, Saturday, or Sunday, the pay day will be the immediately preceding weekday.

The implementation of the after-the-fact payroll shall not be subject to negotiation under chapter 89.

(b) All employees, except those belonging to bargaining units 5 and 7, hired on or after July 1, 1998, shall be paid on the same pay dates and for the same pay periods as non-salaried employees.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on June 30, 1998.

(Approved June 5, 1998.)

ACT 111

H.B. NO. 2990

A Bill for an Act Relating to Agriculture.

*Be It Enacted by the Legislature of the State of Hawaii:*

PART I.

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with article VII, section 9, of the Constitution of the State of Hawaii.

SECTION 2. Water belongs to the people and the State should be the steward in managing and ensuring the allocation of this resource for the highest and best use in the public interest. The legislature finds that it is important that we protect our natural environment by ensuring adequate instream flow of water. The legislature also finds that since agriculture, as one of the State's most important industries, is an essential component of Hawaii's economic base, assurance of an adequate water supply is critical to the continued development of diversified agriculture on the island of Oahu and is vital to the State's efforts to revitalize the economy.

The legislature declares that it is not its intent to displace existing small farming enterprises which presently supply the local market with farm products. Rather, the legislature believes that the acquisition of the Waiahole water system will help to expand opportunities for agricultural endeavors, thereby facilitating the development of viable agricultural exports while concurrently reducing the State's dependency on imported agricultural products.

The purpose of this Act is to provide the necessary statutory authorization and appropriations to allow the agribusiness development corporation to acquire, administer, operate, maintain, and improve the Waiahole water system to ensure the continuation and expansion of diversified agriculture on the island of Oahu and protect the Pearl Harbor aquifer.

The legislature finds and declares that the acquisition, administration, operation, maintenance, and improvement of the Waiahole water system is in the public interest and will serve the public health, safety, and welfare of the people of the State.

PART II.

SECTION 3. Chapter 163D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§163D- Waiahole water system revolving fund.** (a) There is established within the State treasury a revolving fund to be known as the Waiahole water system revolving fund, which shall be administered by the corporation and into which shall be deposited all revenues from assessments, tolls, appropriations made by the legislature to the fund, interest on investments attributable to the Waiahole water system, and other income, receipts, and revenues received by the corporation from the operation of the Waiahole water system. Moneys in the Waiahole water system revolving fund shall be expended by the corporation for the acquisition,



planning, design, improvement, construction, equipping, furnishing, administering, operating, and maintaining of the Waiahole water system and any other purpose deemed necessary by the corporation for the purpose of acquiring and operating the Waiahole water system. The corporation may utilize contributions of money, labor, materials, and property that may be otherwise available from any person or instrumentality.

(b) No expenditure, use, or transfer of funds from the Waiahole water system revolving fund by the corporation shall be subject to chapter 42D, 42F, 103, or 103D.”

SECTION 4. Chapter 343, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§343- Waiahole water system; exemption.** The purchase of the assets of the Waiahole water system shall be specifically exempt from the requirements of chapter 343.”

SECTION 5. Section 163D-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established the agribusiness development corporation, which shall be a public body corporate and politic and an instrumentality and agency of the State. The corporation shall be headed by a board of directors. The corporation shall be placed within the department of agriculture for administrative purposes, but the corporation may later incorporate as a nonprofit corporation if this proves desirable to further its objectives[.]; provided that such reorganization as a nonprofit corporation shall not adversely affect the federal tax status of the interest on any bonds issued to finance any project or project facility.”

SECTION 6. Section 163D-6, Hawaii Revised Statutes, is amended to read as follows:

**“[§163D-6] Subsidiaries; establishment.** (a) The corporation may exercise its powers through one or more subsidiary corporations. The corporation, by resolution, may direct any of its members, officers, or employees to organize a subsidiary corporation pursuant to either chapter 415 or chapter 415B[.]; provided that the organization of a subsidiary corporation shall not adversely affect the federal tax status of the interest on any bonds issued to finance any project or project facility. The resolution shall prescribe the purposes for which the subsidiary corporation is established. The subsidiary corporation shall [be a subsidiary corporation] remain a subsidiary of the corporation as long as more than [half] one-half of its voting shares are owned or held by the corporation, or a majority of its directors are designated by the corporation[.]; provided that the corporation shall not convey or otherwise dispose of any subsidiary corporation or surrender the right to designate a majority of the directors of any subsidiary corporation if the sale or surrender has an adverse affect on the federal tax status of the interest on any bonds issued to finance any project or project facility. The subsidiary corporation may be operated, maintained, and enhanced at the full discretion of the corporation or its designee.

(b) If the corporation acquires the assets of a private or other corporation, then, notwithstanding any law to the contrary:

- (1) Neither the corporation nor any subsidiary corporation vested with the assets shall be subject to chapter 91 with respect to the assets;
- (2) Employees retained to operate the assets shall not be subject to chapters 76 and 77;

- (3) Assets constituting real property interest shall not be subject to chapter 171;
- (4) No investment, loan, or use of funds by the corporation or a subsidiary corporation vested with the assets shall be subject to chapter 42D, 42F, 103, or 103D; and
- (5) Neither the corporation nor a subsidiary corporation vested with the assets shall constitute a public utility or be subject to the jurisdiction of the public utilities commission under chapter 269.

[ (b) ] (c) The corporation may transfer to any subsidiary corporation any moneys[;], any real, personal, or mixed property[;], or any project, in order to carry out the purposes of this chapter. Each subsidiary corporation shall have all the powers of the corporation.”

SECTION 7. Section 163D-8, Hawaii Revised Statutes, is amended by amending subsections (b), (c), and (d) to read as follows:

“(b) [Whenever] Unless and except as otherwise provided by law, whenever the corporation undertakes, or causes to be undertaken, any project facility as part of a project, the cost of providing the project facilities shall be assessed against the real property in the project area specially benefiting from the project facilities. Subject to the express written consent of the landowners directly affected, the corporation shall determine the properties that will benefit from the project facilities to be undertaken and may establish assessment areas that include the properties specially benefiting from the project facilities. The corporation may issue and sell bonds in such amounts as may be authorized by the legislature to provide funds to finance the project facilities. The corporation shall fix the assessments against the real property specially benefited.

(c) [The] Unless and except as otherwise provided by law, the corporation may adopt rules pursuant to chapter 91 to establish the method of undertaking and financing project facilities in a project area.

(d) [Bonds] Unless and except as otherwise provided by law, bonds issued to provide funds to finance project facilities shall be secured solely by the real properties benefited or improved and the assessments thereon, or by the revenues derived from the project for which the bonds were issued, including reserve accounts and earnings thereon, insurance proceeds, and other revenues, or any combination thereof. The bonds may be additionally secured by the pledge or assignment of loans and other agreements or any note or other undertaking, obligation, or property held by the corporation. The bonds shall be issued according to and subject to the rules adopted pursuant to this section. Any other law to the contrary notwithstanding, in assessing real property for project facilities, the corporation shall assess the real property within a project area according to the special benefits conferred upon the real property by the project facilities. These methods may include assessment on a frontage basis or according to the area of real property within a project area, or any other assessment method that assesses the real property according to the special benefit conferred, or any combination thereof. No such assessment levies against real property specially benefited under this chapter shall constitute a tax on real property within the meaning of any law.”

SECTION 8. Section 163D-17, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established the Hawaii agricultural development revolving fund, to which shall be credited any state appropriations to the fund or other moneys made available to the fund, to be expended as directed by the corporation.”

PART III.

SECTION 9. Declaration of findings with respect to the general obligation bonds authorized by this Act. Pursuant to the clause in section 13 of article VII of the State Constitution which states: “Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance,” the legislature finds and declares as follows:

- (1) Limitation on general obligation debt. The debt limit of the State is set forth in section 13 of article VII of the State Constitution, which states in part: “General obligation bonds may be issued by the State; provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on the bonds and on all outstanding general obligation bonds to exceed: a sum equal to twenty per cent of the average of the general fund revenues of the State in the three fiscal years immediately preceding the issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half per cent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance.” Article VII, section 13, also provides that in determining the power of the State to issue general obligation bonds, certain bonds are excludable, including “reimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund are in fact made from the net revenue, or net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year” and bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor, but only to the extent the principal amount of the bonds does not exceed seven per cent of the principal amount of outstanding general obligation bonds not otherwise excluded under said article VII, section 13.
- (2) Actual and estimated debt limits. The limits on principal and interest of general obligation bonds issued by the State, actual for fiscal year 1997-1998 and estimated for each fiscal year from 1998-1999 to 2000-2001, are as follows:

<u>Fiscal Year</u>	<u>Net General Fund Revenues</u>	<u>Debt Limit</u>
1994-1995	\$2,932,879,814	
1995-1996	\$3,136,543,568	
1996-1997	\$3,115,264,737	
1997-1998	\$3,081,838,000	\$566,389,101
1998-1999	\$3,097,393,000	\$575,574,855
1999-2000	\$3,123,869,000	\$573,160,570
2000-2001	(Not Applicable)	\$573,672,667

For fiscal years 1997-1998, 1998-1999, 1999-2000, and 2000-2001, respectively, the debt limits are derived by multiplying the average of the net general fund revenues for the three preceding fiscal years by eighteen and one-half per cent. The net general fund revenues for fiscal years 1994-1995, 1995-1996, and 1996-1997 are actual, as certified by

the director of finance in the Statement of the Debt Limit of the State of Hawaii as of July 1, 1997, dated November 26, 1997. The net general fund revenues for fiscal years 1997-1998 to 1999-2000 are estimates, based on general fund revenue estimates made on March 10, 1998, by the council on revenues, the body assigned by article VII, section 7, of the State Constitution to make such estimates, and based on estimates made by the department of budget and finance of those receipts which cannot be included as general fund revenues for the purpose of calculating the debt limit, all of which estimates the legislature finds to be reasonable.

- (3) Principal and interest on outstanding bonds applicable to the debt limit.
  - (A) According to the department of budget and finance, the total amount of principal and interest on outstanding general obligation bonds, after the exclusions permitted by article VII, section 13, of the State Constitution, for determining the power of the State to issue general obligation bonds within the debt limit as of April 1, 1998, is as follows for fiscal year 1998-1999 to fiscal year 2004-2005:

Fiscal Year	Principal and Interest
1998-1999	\$344,173,243
1999-2000	\$336,848,486
2000-2001	\$335,404,470
2001-2002	\$350,902,266
2002-2003	\$394,565,388
2003-2004	\$350,375,491
2004-2005	\$345,284,497

The department of budget and finance further reports that the amount of principal and interest on outstanding bonds applicable to the debt limit generally continues to decline each year from fiscal year 2005-2006 to fiscal year 2017-2018 when the final installment of \$44,962,638 shall be due and payable. (B) The department of budget and finance further reports that the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is \$181,000,000, all or part of which is excludable in determining the power of the State to issue general obligation bonds, pursuant to article VII, section 13, of the State Constitution.

- (4) Amount of authorized and unissued general obligation bonds and guaranties and proposed bonds and guaranties.
  - (A) As calculated from the state comptroller's bond fund report as of February 28, 1998, adjusted for:
    - (i) Appropriations to be funded with general obligation bonds and reimbursable general obligation bonds as provided in Act 328, Session Laws of Hawaii 1997 (General Appropriations Act of 1997), to be expended in fiscal year 1998-1999;
    - (ii) Appropriations to be funded by reimbursable general obligation bonds as provided in Act 222, Session Laws of Hawaii 1997 (Relating to Hawaii Hurricane Relief Fund Bonds), to be expended in the fiscal year 1998-1999;
    - (iii) Appropriations to be funded by general obligation bonds as provided in Act 155, Session Laws of Hawaii 1997 (the Judiciary Appropriations Act of 1997);

- (iv) The issuance of \$300,000,000 in general obligation bonds of 1998, Series CR; and
  - (v) House Bill No. 2790,<sup>1</sup> Relating to the Hawaii Community Development Authority, for \$19,000,000, the total amount of authorized but unissued general obligation bonds, is \$1,287,276,308. The amount of general obligation bonds proposed in this Act is \$9,700,000. The total amount of general obligation bonds previously authorized and unissued and the general obligation bonds proposed in this Act is \$1,296,976,308. (B) As reported by the department of budget and finance, the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is \$181,000,000, all or part of which is excludable in determining the power of the State to issue general obligation bonds, pursuant to article VII, section 13, of the State Constitution.
- (5) Proposed general obligation bond issuance. As reported in the budget for fiscal years 1997-1998, 1998-1999, 1999-2000, and 2000-2001, the State proposes to issue \$200,000,000 during the remainder of fiscal year 1997-1998, \$400,000,000 during the first half of fiscal year 1998-1999, \$300,000,000 during the second half of fiscal year 1998-1999, and \$100,000,000 semiannually in each of fiscal years 1999-2000 and 2000-2001. It has been the practice of the State to issue twenty-year serial bonds with principal repayments beginning the third year, and interest payments commencing six months from the date of issuance and being paid semiannually thereafter. As reported by the department of budget and finance, the bonds will be maturing in substantially equal annual installments of principal and interest. It is assumed that this practice will be applied to the bonds which are proposed to be issued.
- (6) Sufficiency of proposed general obligation bond issuance to meet the requirements of authorized and unissued bonds, as adjusted, and bonds proposed in this Act. From the schedule reported in paragraph (5), the total amount of general obligation bonds which the State proposes to issue during fiscal years 1997-1998 to 1999-2000 is \$1,100,000,000. An additional \$200,000,000 is proposed to be issued in fiscal year 2000-2001. The total amount of \$1,100,000,000 which is proposed to be issued through fiscal year 1999-2000 is sufficient to meet the requirements of the authorized and unissued bonds, as adjusted, and the bonds authorized by this Act, the total amount of which is \$1,296,976,308, as reported in paragraph (4), except for \$196,976,308. It is assumed that the appropriations to which an additional \$196,976,308 in bond issuance needs to be applied will have been encumbered as of June 30, 2000. The \$200,000,000 which is proposed to be issued in fiscal year 2000-2001 will be sufficient to meet the requirements of the June 30, 2000, encumbrances in the amount of \$196,976,308. The amount of assumed encumbrances as of June 30, 2000, is reasonable and conservative, based upon an inspection of June 30 encumbrances of the general obligation bond fund as reported by the state comptroller. Thus, taking into account the amount of previously authorized and unissued bonds and bonds proposed in this Act versus the amount of bonds which is proposed to be issued by June 30, 2000, and the amount of June 30, 2000, encumbrances versus the amount of bonds which is proposed to be issued in the fiscal year 2000-2001, the legislature finds that in the aggregate, the amount of bonds is sufficient to meet these requirements.

- (7) Bonds excludable in determining the power of the State to issue bonds. As noted in paragraph (1), certain bonds are excludable in determining the power of the State to issue general obligation bonds. (A) General obligation reimbursable bonds can be excluded under certain conditions. It is not possible to make a conclusive determination as to the amount of reimbursable bonds which are excludable from the amount of each proposed bond issued because:
- (i) It is not known exactly when projects for which reimbursable bonds have been authorized in prior acts and in this Act will be implemented and will require the application of proceeds from a particular bond issue; and
  - (ii) Not all reimbursable general obligation bonds may qualify for exclusion. However, the legislature notes that with respect to the principal and interest on outstanding general obligation bonds, as reported in this section, the average proportion of principal and interest which is excludable each year from calculation against the debt limit is 7.03 per cent for the ten years from fiscal year 1998-1999 to fiscal year 2007-2008. For the purpose of this declaration, the assumption is made that five per cent of each bond issue will be excludable from the debt limit, an assumption which the legislature finds to be reasonable and conservative. (B) Bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor can be excluded but only to the extent the principal amount of such guaranties does not exceed seven per cent of the principal amount of outstanding general obligation bonds not otherwise excluded under subparagraph (A) of paragraph (7) and provided that the State shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State as provided by law. According to the department of budget and finance and the assumptions presented herein, the total principal amount of outstanding general obligation bonds and general obligation bonds proposed to be issued, which are not otherwise excluded under article VII, section 13, of the State Constitution for fiscal years 1997-1998, 1998-1999, 1999-2000, and 2000-2001 are as follows:

<u>Fiscal year</u>	<u>Total amount of General Obligation Bonds not otherwise excluded by section 13 of article VII of the State Constitution</u>
1997-1998	\$3,360,473,997
1998-1999	\$3,848,824,276
1999-2000	\$3,850,967,163
2000-2001	\$3,830,302,703

Based on the foregoing and based on the assumption that the full amount of a guaranty is immediately due and payable when the guaranty changes from a contingent liability to an actual liability, the aggregate principal amount of the portion of the outstanding guaranties and the guaranties proposed to be incurred, which does not exceed seven per cent of the average amount set forth in the last column of the above table and for which reserve funds have been or will have been

established as heretofore provided, can be excluded in determining the power of the State to issue general obligation bonds. As it is not possible to predict with a reasonable degree of certainty when a guaranty will change from a contingent liability to an actual liability, it is assumed in conformity with fiscal conservatism and prudence, that all guaranties not otherwise excluded pursuant to article VII, section 13, of the State Constitution will become due and payable in the same fiscal year in which the greatest amount of principal and interest on general obligation bonds, after exclusions, occurs. Thus, based on these assumptions and on the determination in paragraph (8), the aggregate amount of the portion of the outstanding guaranties, which must be included in determining the power of the State to issue general obligation bonds, is \$0.

- (8) Determination whether the debt limit will be exceeded at the time of issuance. From the foregoing and on the assumption that all of the bonds identified in paragraph (5) will be issued at an interest rate of 6.5 per cent, it can be determined from the following schedule that the bonds which are proposed to be issued, which include all authorized and unissued bonds previously authorized, as adjusted, general obligation bonds and instruments of indebtedness under which the State incurs a contingent liability as a guarantor authorized in this Act, will not cause the debt limit to be exceeded at the time of the issuance:

Time of Issuance and Amount to be Counted Against Debt Limit	Debt Limit at Time of Issuance	Greatest Amount and Year of Highest Principal and Interest on Bonds and Guaranties
Remainder FY 1997-1998		
\$190,000,000	\$566,389,101	\$412,776,638 (2002-2003)
1st half FY 1998-1999		
\$380,000,000	\$575,574,855	\$448,770,738 (2002-2003)
2nd half FY 1998-1999		
\$285,000,000	\$575,574,855	\$476,090,013 (2002-2003)
1st half FY 1999-2000		
\$95,000,000	\$573,160,570	\$485,093,163 (2002-2003)
2nd half FY 1999-2000		
\$95,000,000	\$573,160,570	\$494,197,713 (2002-2003)
1st half FY 2000-2001		
\$95,000,000	\$573,672,667	\$503,207,488 (2002-2003)
2nd half FY 2000-2001		
\$95,000,000	\$573,672,667	\$512,312,488 (2002-2003)

- (9) Overall and concluding finding. From the facts, estimates, and assumptions stated in this declaration of findings, the conclusion is reached that the total amount of principal and interest estimated for the general obligation bonds authorized in this Act, and for all bonds authorized and unissued, and calculated for all bonds issued and outstanding, and all guaranties, will not cause the debt limit to be exceeded at the time of issuance.

SECTION 10. The legislature finds the bases for the declaration of findings set forth in this Act reasonable. The assumptions set forth in this Act with respect to the principal amount of general obligation bonds which will be issued, the amount of

principal and interest on reimbursable general obligation bonds which are assumed to be excludable, and the assumed maturity structure shall not be deemed to be binding, it being the understanding of the legislature that these matters must remain subject to substantial flexibility.

SECTION 11. Authorization for issuance of general obligation bonds. General obligation bonds may be issued as provided by law in an amount that may be necessary to finance the project authorized herein, and designated to be financed from the general obligation bond fund with debt service cost to be paid from special funds; provided that the sum total of general obligation bonds issued shall not exceed \$9,700,000.

Any law to the contrary notwithstanding, general obligation bonds may be issued from time to time in accordance with section 39-16, Hawaii Revised Statutes, in a principal amount as may be required to refund any general obligation bonds of the State of Hawaii heretofore or hereafter issued pursuant to law.

**PART IV.**

SECTION 12. There is appropriated out of the general revenues of the State of Hawaii the sum of \$550,000 or so much thereof as may be necessary for fiscal year 1998-1999 to be deposited into the Waiahole water system revolving fund for the operation and maintenance of the Waiahole water system.

SECTION 13. There is appropriated out of the Waiahole water system revolving fund the sum of \$550,000 or so much thereof as may be necessary for fiscal year 1998-1999 for the operation and maintenance of the Waiahole water system. The sum appropriated shall be expended by the agribusiness development corporation for the purposes of this Act.

SECTION 14. The director of finance is authorized to issue reimbursable general obligation bonds in the sum of \$9,700,000, or so much thereof as may be necessary, and the sum of \$8,500,000 in reimbursable general obligation bond fund or so much thereof as may be necessary, is appropriated for fiscal year 1997-1998 and the sum of \$1,200,000 in reimbursable general obligation bond funds or so much thereof as may be necessary is appropriated for fiscal year 1998-1999 to finance the cost of acquisition, planning, design, improvement, construction, equipping, furnishing, administration, and operation and maintenance of the Waiahole water system.

The Waiahole water system, upon acquisition of all of the assets thereof, shall be and constitute a public undertaking, improvement or system from which revenues may be derived for the payment of principal and interest on the reimbursable general obligation bonds authorized by this section as reimbursement to the general fund, and the corporation shall reimburse the general fund in accordance with a schedule determined by the director of finance, with the approval of the governor, as may be in the best interest of the State.

The sums appropriated by this section shall be expended by the agribusiness development corporation for the purposes of this section; provided that any unexpended or unencumbered balance of the moneys appropriated by this section as of the close of business on June 30, 2000, shall lapse.

**PART V.**

SECTION 15. Nothing in this Act shall be construed to affect the powers and authority of the commission on water resource management under chapter 174C, Hawaii Revised Statutes, nor its inherent power to modify any water allocations.



## PART VI.

SECTION 16. (a) The agribusiness development corporation shall work toward obtaining commitments from landowners in the leeward and central districts of Oahu that their agricultural leases shall be for a duration of twenty or more years, and shall not be amended or revoked in order to allow for a nonagricultural use of such land.

(b) To further ensure the preservation of agriculture in the leeward and central districts of Oahu, the agribusiness development corporation shall monitor the agricultural leases of lands utilizing the water from the Waiahole water system. In the event of any proposed amendment or revocation of any such lease, the corporation shall do all things within its powers under chapter 163D, Hawaii Revised Statutes, to protect and defend the interests of the agricultural leaseholders to ensure the continuation of agricultural use for those lands.

SECTION 17. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 18. In printing this Act, the revisor of statutes shall substitute in section 9, the corresponding Act number for the bill identified therein.

SECTION 19. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 20. This Act shall take effect upon its approval.

(Approved June 5, 1998.)

**Notes**

1. Did not pass Legislature.
2. Edited pursuant to HRS §23G-16.5.

**ACT 112**

S.B. NO. 2782

A Bill for an Act Relating to the Relief of Certain Persons' Claims Against the State and Providing Appropriations Therefor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The following sums of money are appropriated out of the general revenues of the State of Hawaii for the purpose of satisfying claims for legislative relief as to the following named persons, firms, corporations and entities, for claims against the State or its officers or employees for overpayment of taxes, or for refunds, reimbursements, payments of judgments or settlements, or other liabilities, in the amount set forth opposite their names:

**ACT 112**

JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:	AMOUNT
Amay v. State of Hawaii Civil No. 95-335, Third Circuit	\$ 27,500.00 Settlement
Aoki v. State of Hawaii Civil No. 96-4322-10, First Circuit	\$ 200,000.00 Settlement
Barrios v. Dept. of Transportation, et al. Civil No. 95-0678-02, First Circuit	\$ 70,000.00 Settlement
Ben v. Citizens Utilities, et al. Civil No. 95-0054, Fifth Circuit	\$1,500,000.00 Settlement
Bruno v. City & County of Honolulu, et al. Civil No. 96-5055-12, First Circuit	\$ 22,500.00 Settlement
Bush, et al. v. Watson Civil No. 94-0305(3), Second Circuit	\$ 80,369.05 Settlement
Crowder v. Nakatani Civil No. 93-00213, DAE, USDC	\$ 165,000.00 Settlement
Does v. United Cerebral Palsy, et al. Civil No. 95-3542-10, First Circuit	\$ 16,972.28 Settlement
Amount of Settlement:	\$16,666.67
Interest at 4% from 2/6/98:	\$ 305.61
Edrado v. State of Hawaii Civil No. 96-1659-04, First Circuit	\$ 25,000.00 Settlement
Farnung v. State of Hawaii Civil No. 96-4540-11, First Circuit	\$ 12,825.04 Judgment
Amount of Judgment:	\$12,418.40
Interest at 4% from 10/6/97	\$ 406.64
Fernandez v. State of Hawaii, et al. Civil No. 96-0950-03, First Circuit	\$ 70,000.00 Settlement
Gannett Pacific Corporation dba The Honolulu Advertiser, et al. v. Convention Center Authority Civil No. 97-1293-04, First Circuit	\$ 34,468.36 Settlement
Grenier, et al. v. Wilson, et al. Civil No. 96-071K, Third Circuit	\$ 25,000.00 Settlement
Hawaii Meat Co., Ltd. v. State of Hawaii, et al. Civil No. 97-3519-08, First Circuit	\$ 25,000.00 Settlement
Hodge v. University of Hawaii, et al. Civil No. 95-1935-06, First Circuit	\$ 200,000.00 Settlement
Hose v. Thorburn, et al. Civil No. 94-000751 FIY, USDC	\$ 22,879.65 Settlement
Island Insurance Company, Ltd. v. State of Hawaii Civil No. 96-0922-03, First Circuit	\$ 22,500.00 Settlement

Keohuloa v. Akau, et al. Civil No. 96-028, Third Circuit	\$ 100,000.00 Settlement
King v. Faitau, et al. Civil No. 93-3771-09, First Circuit	\$ 172,500.00 Settlement
Lopes v. Kegley, et al. Civil No. 95-0415(2), Second Circuit	\$ 262,500.00 Settlement
Claim of Blaine Lum	\$ 20,000.00 Settlement
Maestro, et al. v. State of Hawaii, et al. Civil No. 96-0050-01, First Circuit	\$ 25,000.00 Settlement
Malo v. State of Hawaii, et al. Civil No. 95-2098-06, First Circuit	\$ 175,000.00 Settlement
Manning v. State of Hawaii Civil No. 95-2200-06, First Circuit Civil No. 97-01092 ACK, USDC	\$ 175,000.00 Settlement
Medina v. State of Hawaii, et al. Civil No. 95-4705-12, First Circuit	\$ 25,000.00 Settlement
Motu v. State of Hawaii, et al. Civil No. 94-3531-09, First Circuit	\$ 173,509.57 Judgment
Amount of Judgment:	\$169,715.17
Interest at 4% from 1/9/98:	\$ 3,794.40
Nagatani v. West, et al. Civil No. 95-0727-03, First Circuit	\$ 95,000.00 Settlement
Nhieu v. Lamoureux, et al. Civil No. 96-2338-06, First Circuit and	\$ 23,653.00 Settlement
Doan v. Lamoureux, et al. Civil No. 96-2338-06, First Circuit	\$ 22,497.00 Settlement
Olivares v. State, et al. Civil No. 95-3277-09, First Circuit	\$ 25,000.00 Settlement
Orenstein v. State, et al. Civil No. 95-4478-12, First Circuit	\$ 48,445.04 Judgment
Amount of Judgment:	\$45,799.50
Interest at 4% from 2/20/97:	\$ 2,645.54
Paoao v. State of Hawaii Civil No. 96-267, Third Circuit	\$ 27,714.13 Judgment
Amount of Judgment:	\$26,347.16
Interest at 4% from 4/14/97	\$ 1,366.97
Paver v. State, et al. Civil No. 94-4832-12, First Circuit	\$ 30,000.00 Settlement
Sato v. State, et al. Civil No. 95-00951, USDC	\$ 83,201.05 Settlement
Starr v. State of Hawaii Civil No. 97-00228 DAE, USDC	\$ 14,575.60 Settlement

## ACT 112

State of Hawaii v. W. H. McVay, et al. Civil No. 91-4097-12, First Circuit		\$ 500,000.00 Settlement
Techno Engineering & Construction v. State of Hawaii Civil No. 94-2603-07, First Circuit		\$ 631,000.00 Settlement
Travaso v. University of Hawaii-Hilo Civil No. 96-520, Third Circuit		\$ 25,000.00 Settlement
Wagner v. Kanemitsu, et al. Civil No. 96-226, Third Circuit		\$ 80,993.48 Judgment
Amount of Judgment:	\$76,850.84	
Interest at 4% from 4/10/97	\$ 4,142.64	
Williams v. Akita, et al. Civil No. 96-4946-12, First Circuit		\$ 335,000.00 Settlement
Yallouz v. State of Hawaii Civil No. 96-3305-08, First Circuit		\$ 100,000.00 Settlement
Yi v. State of Hawaii Civil No. 96-0448(1), Second Circuit		\$ 25,000.00 Settlement
Hale Opio Kauai, Inc. v. State of Hawaii Civil No. 96-0161, Fifth Circuit		\$ 250,000.75 Settlement

### MISCELLANEOUS CLAIMS:

SECTION 2. The sums hereinabove appropriated may be paid to the respective persons, or for the satisfaction or settlement of the respectively identified cases, and in the several amounts hereinabove set forth upon warrants or checks issued by the comptroller of the State:

- (1) Upon vouchers approved by the director of taxation as to claims for refunds of taxes; and
- (2) Upon vouchers approved by the attorney general as to all other claims.

SECTION 3. Notwithstanding the sums hereinabove appropriated as interest upon judgments against the State, payment of interest shall be limited to the period from the date of judgment, if applicable, to thirty days after the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, for those cases to which that statute applies.

SECTION 4. All unexpended and unencumbered balances of the appropriations made by section 1 of this Act as of the close of business on June 30, 1999, shall lapse into the general fund of the State.

SECTION 5. If any provision of this Act, or the application thereof to any person or entity or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 12, 1998.)

## ACT 113

S.B. NO. 3004

A Bill for an Act Relating to Conformity of the Hawaii Income Tax Law to the Internal Revenue Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 235-2.3, Hawaii Revised Statutes, is amended to read as follows:

**“§235-2.3 Conformance to the federal Internal Revenue Code; general application.** (a) For all taxable years beginning after December 31, [1996,] 1997, as used in this chapter “Internal Revenue Code” means subtitle A, chapter 1 of the federal Internal Revenue Code of 1986, as amended as of December 31, [1996,] 1997, as it applies to the determination of gross income, adjusted gross income, ordinary income and loss, and taxable income except those provisions of the Internal Revenue Code and federal public laws which pursuant to this chapter do not apply or are otherwise limited in application.

Sections 235-2, 235-2.1, and 235-2.2 shall continue to be used to determine:

- (1) The basis of property, if a taxpayer first determined the basis of property in a taxable year to which such sections apply, and if such determination was made before January 1, 1978; and
- (2) Gross income, adjusted gross income, ordinary income and loss, and taxable income for a taxable year to which such sections apply where such taxable year begins before January 1, 1978.

(b) The following Internal Revenue Code subchapters, parts of subchapters, sections, subsections, and parts of subsections shall not be operative for the purposes of this chapter, unless otherwise provided:

- (1) Subchapter A (sections 1 to 59A) (with respect to determination of tax liability), except section 1(h)(3) (relating to net capital gain reduced by the amount taken into account as investment income), except section 42 (with respect to low-income housing credit), and except sections 47 and 48, as amended, as of December 31, 1984 (with respect to certain depreciable tangible personal property). For treatment, see sections 235-110.7 and 235-110.8[.];
- (2) Section 78 (with respect to dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit)[.];
- (3) Section 86 (with respect to social security and tier 1 railroad retirement benefits)[.];
- (4) Section 103 (with respect to interest on state and local bonds). For treatment, see section 235-7(b)[.];
- (5) Section 120 (with respect to amounts received under qualified group legal services plans). For treatment, see section 235-7(a)(9) to (11)[.];
- (6) Section 122 (with respect to certain reduced uniformed services retirement pay). For treatment, see section 235-7(a)(3)[.];
- (7) Section 135 (with respect to income from United States savings bonds used to pay higher education tuition and fees). For treatment, see section 235-7(a)(1)[.];
- (8) Subchapter B (sections 141 to 150) (with respect to tax exemption requirements for state and local bonds)[.];
- (9) Section 151 (with respect to allowance of deductions for personal exemptions). For treatment, see section 235-54[.];
- (10) Section 196 (with respect to deduction for certain unused investment credits)[.];

- (11) Sections 241 to 247 (with respect to special deductions for corporations). For treatment, see section 235-7(c)[.];
- (12) Section 280C (with respect to certain expenses for which credits are allowable)[.];
- (13) Section 291 (with respect to special rules relating to corporate preference items)[.];
- (14) Section 367 (with respect to foreign corporations)[.];
- (15) Section 501(c)(12), (15), (16) (with respect to exempt organizations)[.];
- (16) Section 515 (with respect to taxes of foreign countries and possessions of the United States)[.];
- (17) Subchapter G (sections 531 to 565) (with respect to corporations used to avoid income tax on shareholders)[.];
- (18) Subchapter H (sections 581 to 597) (with respect to banking institutions), except section 584 (with respect to common trust funds). For treatment, see chapter 241[.];
- (19) Section 642(a) and (b) (with respect to special rules for credits and deductions applicable to trusts). For treatment, see sections 235-54(b) and 235-55[.];
- (20) Section 668 (with respect to interest charge on accumulation distributions from foreign trusts)[.];
- (21) Subchapter L (sections 801 to 848) (with respect to insurance companies). For treatment, see sections 431:7-202 and 431:7-204[.];
- (22) Section 853 (with respect to foreign tax credit allowed to shareholders). For treatment, see section 235-55[.];
- (23) Subchapter N (sections 861 to 999) (with respect to tax based on income from sources within or without the United States), except sections 985 to 989 (with respect to foreign currency transactions). For treatment, see sections 235-4, 235-5, and<sup>1</sup> 235-7(b), and 235-55[.];
- (24) Section 1042(g) (with respect to sales of stock in agricultural refiners and processors to eligible farm cooperatives);
- [24] (25) Section 1055 (with respect to redeemable ground rents)[.];
- [25] (26) Section 1057 (with respect to election to treat transfer to foreign trust, etc., as taxable exchange)[.];
- [26] (27) Sections 1291 to [1297] 1298 (with respect to treatment of passive foreign investment companies)[.];
- [27] (28) Subchapter Q (sections 1311 to 1351) (with respect to readjustment of tax between years and special limitations)[.]; and
- [28] (29) Subchapter U (sections 1391 to [1397D] 1397F) (with respect to designation and treatment of empowerment zones, enterprise communities, and rural development investment areas). For treatment, see chapter 209E.’’

SECTION 2. Section 235-2.4, Hawaii Revised Statutes, is amended to read as follows:

“**§235-2.4 Operation of certain Internal Revenue Code provisions.** (a) Section 63 (with respect to taxable income defined) of the Internal Revenue Code shall be operative for the purposes of this chapter, except that the standard deduction amount in section 63(c) of the Internal Revenue Code shall instead mean:

- (1) \$1,900 in the case of:
  - (A) A joint return as provided by section 235-93, or
  - (B) A surviving spouse (as defined in section 2(a) of the Internal Revenue Code),

- (2) \$1,650 in the case of a head of household (as defined in section 2(b) of the Internal Revenue Code),
- (3) \$1,500 in the case of an individual who is not married and who is not a surviving spouse or head of household, or
- (4) \$950 in the case of a married individual filing a separate return.

Section 63(c)(4) shall not be operative in this State. Section 63(c)(5) shall be operative, except that the limitation on basic standard deduction in the case of certain dependents shall be the greater of \$500 or such individual's earned income. Section 63(f) shall not be operative in this State.

(b) Section 72 (with respect to annuities; certain proceeds of endowment and life insurance contracts) of the Internal Revenue Code shall be operative for purposes of this chapter and be interpreted with due regard to section 235-7(a), except that the ten per cent additional tax on early distributions from retirement plans in section 72(t) shall not be operative for purposes of this chapter.

(c) Section 121 (with respect to exclusion of gain from sale of principal residence) of the Internal Revenue Code shall be operative for purposes of this chapter, except that for the election under section 121(f), a reference to section 1034 treatment means a reference to section 235-2.4(n) in effect for taxable year 1997.

[(b)] (d) Section 213 (with respect to medical, dental, etc., expenses) of the Internal Revenue Code shall be operative, except that subsections (d)(1)(C) with respect to long-term care services, (d)(1)(D) as it applies to long-term care insurance contract premiums, (d)(7) as it applies to long-term care insurance contract premiums, and (d)(10) as it applies to eligible long-term care premiums[,] shall not be operative in this State.

[(c)] (e) Section 219 (with respect to retirement savings) of the Internal Revenue Code shall be operative for the purpose of this chapter. For the purpose of computing the limitation on the deduction for active participants in certain pension plans for state income tax purposes, adjusted gross income as used in section 219 as operative for this chapter means federal adjusted gross income.

[(d)] (f) Section 220 (with respect to medical savings accounts) of the Internal Revenue Code shall be operative for the purpose<sup>2</sup> of this chapter, but only with respect to medical services accounts that have been approved by the secretary of the Treasury of the United States.

[(e)] (g) In administering the provisions of sections 410 to 417 (with respect to special rules relating to pensions, profit sharing, stock bonus plans, etc.), sections 418 to 418E (with respect to special rules for multiemployer plans), and sections 419 and 419A (with respect to treatment of welfare benefit funds) of the Internal Revenue Code, the department of taxation shall adopt rules under chapter 91 relating to the specific requirements under such sections and to such other administrative requirements under those sections as may be necessary for the efficient administration of sections 410 to 419A.

In administering sections 401 to 419A (with respect to deferred compensation) of the Internal Revenue Code, Public Law 93-406, section 1017(i), shall be operative for the purposes of this chapter.

In administering section 402 (with respect to the taxability of beneficiary of employees' trust) of the Internal Revenue Code, the tax imposed on lump sum distributions by section 402(e) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter.

[(f)] (h) Section 468B (with respect to special rules for designated settlement funds) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at a rate equal to the maximum rate in effect for the taxable year imposed on estates and trusts under section 235-51.

[(g)] (i) Section 469 (with respect to passive activities and credits limited) of the Internal Revenue Code shall be operative for the purposes of this chapter. For the purpose of computing the offset for rental real estate activities for state income tax purposes, adjusted gross income as used in section 469 as operative for this chapter means federal adjusted gross income.

[(h)] (j) Sections 512 to 514 (with respect to taxation of business income of certain exempt organizations) of the Internal Revenue Code shall be operative for the purposes of this chapter as provided in this subsection.

“Unrelated business taxable income” means the same as in the Internal Revenue Code, except that in the computation thereof sections 235-3 to 235-5, and 235-7 (except subsection (c)), shall apply, and in the determination of the net operating loss deduction there shall not be taken into account any amount of income or deduction which is excluded in computing the unrelated business taxable income. Unrelated business taxable income shall not include any income from a prepaid legal service plan.

For a person described in section 401 or 501 of the Internal Revenue Code, as modified by section 235-2.3, the tax imposed by section 235-51 or 235-71 shall be imposed upon the person’s unrelated business taxable income.

[(i)] (k) Section 521 (with respect to cooperatives) and subchapter T (sections 1381 to 1388, with respect to cooperatives and their patrons) of the Internal Revenue Code shall be operative for the purposes of this chapter as to any cooperative fully meeting the requirements of section 421-23, except that Internal Revenue Code section 521 cooperatives need not be organized in Hawaii.

[(j)] (l) Sections 527 (with respect to political organizations) and 528 (with respect to certain homeowners associations) of the Internal Revenue Code shall be operative for the purposes of this chapter and the taxes imposed in each such section are hereby imposed by this chapter at the rates determined under section 235-71.

[(k)] (m) Section 641 (with respect to imposition of tax) of the Internal Revenue Code shall be operative for the purposes of this chapter subject to the following:

- (1) The deduction for exemptions shall be allowed as provided in section 235-54(b).
- (2) The deduction for contributions and gifts in determining taxable income shall be limited to the amount allowed in the case of an individual, unless the contributions and gifts are to be used exclusively in the State.
- (3) The tax imposed by section 1(e) of the Internal Revenue Code as applied by section 641 of the Internal Revenue Code is hereby imposed by this chapter at the rate and amount as determined under section 235-51 on estates and trusts.

[(l)] (n) Section 644 (with respect to special rule for gain on property transferred to trust at less than fair market value) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter; except that the determination of the interest rate established under section 6621 of the Internal Revenue Code referred to in section 644(a)(2) of the Internal Revenue Code shall instead be the interest rate established under section 231-39(b)(4).

[(m)] (o) Section 667 (with respect to treatment of amounts deemed distributed by trusts in preceding years) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter; except that the reference to tax-exempt interest to which section 103 of the Internal Revenue Code applies in section 667(a) of the Internal Revenue Code shall instead be a reference to tax-exempt interest to which section 235-7(b) applies.



(p) Section 685 (with respect to treatment of qualified funeral trusts) of the Internal Revenue Code shall be operative for purposes of this chapter, except that the tax imposed under this chapter shall be computed at the tax rates provided under section 235-51, and no deduction for the exemption amount provided in section 235-54(b) shall be allowed. The cost-of-living adjustment determined under section 1(f)(3) of the Internal Revenue Code shall be operative for the purpose of applying section 685(c)(3) under this chapter.

[(n) Section 1034 (with respect to rollover of gain on sale of principal residence) of the Internal Revenue Code shall be operative for the purpose of this chapter; provided section 1034(a) (with respect to nonrecognition of gain) of the Internal Revenue Code shall apply only to:

- (1) A taxpayer who purchases a replacement residence which is located within the State;
- (2) A taxpayer who is a resident of the State, taxable upon the taxpayer's entire income, computed without regard to source within the State; or
- (3) A taxpayer (or the taxpayer's spouse if the old residence and the new residence are each used by the taxpayer and the taxpayer's spouse as their principal residence) who, while serving on extended active duty with the armed forces of the United States, purchased a residence in Hawaii and later sold the residence.

(o) (q) Section 1212 (with respect to capital loss carrybacks and carryforwards) of the Internal Revenue Code shall be operative for the purposes of this chapter; except that for the purposes of this chapter the capital loss carryback provisions of section 1212 shall not be operative and the capital loss carryforward allowed by section 1212(a)[.] shall be limited to five years.

[(p) (r) Subchapter S (sections 1361 to 1379) (with respect to tax treatment of S corporations and their shareholders) of chapter 1 of the Internal Revenue Code shall be operative for the purposes of this chapter as provided in part VII.

[(q) (s) Subchapter C (sections 6221 to 6233) (with respect to tax treatment of partnership items) of chapter 63 of the Internal Revenue Code shall be operative for the purposes of this chapter.

[(r) Subchapter D (sections 6241 to 6245) (with respect to tax treatment of subchapter S items) of chapter 63 of the Internal Revenue Code shall be operative for the purposes of this chapter, and shall be interpreted with due regard to part VII.]

(t) Subchapter D (sections 6240 to 6255) (with respect to simplified audit procedures for electing large partnerships) of the Internal Revenue Code shall be operative for the purposes of this chapter, with due regard to chapter 232 relating to tax appeals.

[(s) (u) Section 7518 (with respect to capital construction fund for commercial fishers) of the Internal Revenue Code shall be operative for the purposes of this chapter. Qualified withdrawals for the acquisition, construction, or reconstruction of any qualified asset which is attributable to deposits made before the effective date of this section shall not reduce the basis of the asset when withdrawn. Qualified withdrawals shall be treated on a first-in-first-out basis."

SECTION 3. Section 235-71.5, Hawaii Revised Statutes, is amended to read as follows:

**“§235-71.5<sup>1</sup> Alternative tax for corporations.** Section 1201 (with respect to alternative tax for corporations) of the Internal Revenue Code of 1986, as amended as of December 31, 1996, shall be operative for the purposes of this chapter and shall be applied as set forth in this section. If for any taxable year a corporation, regulated investment company, or real estate investment trust has a net capital gain, then, in lieu of the tax imposed by section 235-71, there is hereby imposed a tax (if

such tax is less than the tax imposed under section 235-71) which shall consist of the sum of:

- (1) A tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this section had not been enacted, plus
- (2) The sum of:
  - (A) 3.08 per cent of the lesser of:
    - (i) The net capital gain determined by including only the gain or loss which is properly taken into account for the portion of the taxable year before April 1, 1987 (i.e., the amount in paragraph (1)), or
    - (ii) The net capital gain for the taxable year, plus,<sup>3</sup>
  - (B) 4 per cent of the excess (if any) of:
    - (i) The net capital gain for the taxable year, over
    - (ii) The amount of the net capital gain taken into account under subparagraph (A)."

SECTION 4. Section 235-97, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) In the case of any underpayment of estimated tax, except as provided by this subsection, there shall be added to the tax for the taxable year an amount determined at the rate of two-thirds of one per cent a month or fraction of a month upon the amount of the underpayment for the period of the underpayment.

- (1) The amount of the underpayment shall be the excess of:
  - (A) The required installment, over
  - (B) The amount, if any, of the installment paid on or before the due date for the installment.
- (2) The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier:
  - (A) The twentieth day of the fourth month following the close of the taxable year, or
  - (B) With respect to any portion of the underpayment, the date on which the portion is paid. For purposes of this paragraph, a payment of estimated tax on any installment date shall be credited against unpaid required installments in the order in which the installments are required to be paid.
- (3) For the purposes of this section, the term “tax” means the tax imposed under this chapter reduced by any credits available to the taxpayer<sup>4</sup> other than the credit for amounts withheld from the taxpayers wages or taxes withheld at the source, if any, for the taxable year.
- (4) Sections 6654(d), (e)(2), (e)(3), (h), (i), (j), (k), and (l), (with respect to failure by an individual to pay estimated income tax), and 6655(d), (e), (g)(2), (g)(3), (g)(4), and (i) (with respect to failure by a corporation to pay estimated income tax) of the Internal Revenue Code, as of the date set forth in section 235-2.3(a), shall be operative for the purposes of this section; provided that the due dates contained in any of the preceding Internal Revenue Code sections shall be deemed to be the twentieth day of the applicable month[.]; and provided further that, for purposes of this chapter in applying section 6654(d), if the adjusted gross income shown on the return of the individual for the preceding taxable year exceeds \$150,000, the required annual payment shall be the lesser of ninety per cent of the tax shown on the return for the taxable year (or, if no return is filed, ninety per cent of the tax for the

taxable year) or one hundred ten per cent of the tax shown on the return of the individual for the preceding taxable year.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1997.

(Approved June 12, 1998.)

#### Notes

1. So in original.
2. Prior to amendment “purposes” appeared here.
3. Comma should be underscored.
4. Prior to amendment “taxpayer’s” appeared here.

## ACT 114

H.B. NO. 3489

A Bill for an Act Relating to Harbors.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 266-17, Hawaii Revised Statutes, is amended to read as follows:

“**§266-17 Rates, how fixed.** (a) The department of transportation shall adjust [and], fix, and enforce the rates assessable and chargeable by it in respect to dockage, wharfage, demurrage, and other rates and fees pertaining to harbors, wharves, and properties managed and operated by it so as to produce from the rates and fees[:

- (1) In, in respect to all [such] harbors, wharves, and other properties, except [such as] those that are principally used for recreation or the landing of fish, revenues sufficient to:
  - [(A)] (1) Pay when due the principal of and interest on all bonds and other obligations for the payment of which the revenue is or has been pledged, charged, or otherwise encumbered, or which are otherwise payable from the revenue or from a special fund maintained or to be maintained from the revenue, including reserves therefor, and to maintain the special fund in an amount at least sufficient to pay when due all bonds or other revenue obligations and interest thereon, which are payable from the special fund, including reserves therefor;
  - [(B)] (2) Provide for all expenses of operation and maintenance of the properties, including reserves therefor, and the expenses of the department in connection with operation and maintenance; and
  - [(C)] (3) Reimburse the general fund of the State for all bond requirements for general obligation bonds which are or have been issued for harbor or wharf improvements, or to refund any of the improvement bonds, excluding bonds, the proceeds of which were or are to be expended for improvements which are or will be neither revenue producing nor connected in their use directly with revenue producing properties.

(b) When weather, road closures due to special events, or road repairs do not permit the loading or unloading of passengers at Kewalo basin, cruise boats holding a Kewalo basin sublease approved by the State shall be allowed to use Honolulu harbor facilities on a space available basis, and the fees for the use of facilities shall be in accordance with the Hawaii Administrative Rules of the department of transportation relating to fees for use of facilities for private gain.”

SECTION 2. Section 266-19, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is created in the treasury of the State the harbor special fund. All moneys received by the department of transportation from the rates and fees pursuant to section [266-17(1)] 266-17(a)(1) shall be paid into the harbor special fund. The harbor special fund and the second separate harbor special fund heretofore created shall be consolidated into the harbor special fund at such time as there are no longer any revenue bonds payable from the second separate harbor special fund. The harbor reserve fund heretofore created is abolished.

All moneys derived pursuant to this chapter from harbor properties of the statewide system of harbors (excluding properties principally used for recreation or the landing of fish, except properties located at Kewalo Basin, ewa of Ala Moana Park, Honolulu) shall be paid into the harbor special fund and each fiscal year shall be appropriated, applied, or expended by the department of transportation for the statewide system of harbors for any purpose within the jurisdiction, powers, duties, and functions of the department of transportation related to the statewide system of harbors (excluding properties principally used for recreation or the landing of fish, except the properties located at Kewalo Basin, ewa of Ala Moana Park, Honolulu), including, without limitation, the costs of operation, maintenance and repair of the statewide system of harbors and reserves therefor, and acquisitions (including real property and interests therein), constructions, additions, expansions, improvements, renewals, replacements, reconstruction, engineering, investigation, and planning, for the statewide system of harbors, all or any of which in the judgment of the department of transportation are necessary to the performance of its duties or functions.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 13, 1998.)

**ACT 115**

H.B. NO. 2560

A Bill for an Act Relating to the University of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds as follows:

- (1) An essential ingredient of economic vitality for Hawaii is the development and maintenance of preeminent institutions of higher learning;
- (2) Under Article X, section 5 of the Hawaii State Constitution, the University of Hawaii is established as our state university, constituted as a body corporate, and designated as holding title “to all the real and

personal property now or hereafter set aside or conveyed to it,” to be “held in public trust for its purposes, to be administered and disposed of as provided by law”;

- (3) The governor, president of the senate, and the speaker of the house of representatives convened an economic revitalization task force to evaluate and propose comprehensive measures to regenerate Hawaii’s economy;
- (4) One of the task force’s principal recommendations was to provide greater “autonomy” to the University of Hawaii, meaning the devolution to the board of regents and the university community of substantially increased decision-making authority and responsibility with respect to fulfillment of the university’s constitutional role and administration of its constitutionally-designated assets and public trust undertakings;
- (5) The task force’s conclusion, which this legislature endorses and this Act implements, was that autonomy for the university would materially enhance the university’s performance of its constitutional responsibilities and thereby contribute significantly to economic revitalization;
- (6) Under this Act, the university board of regents and administration are delegated substantially increased authority and decision-making power over the real and personal assets held in public trust pursuant to the Constitution and the management of the human resources and programs of the university, including but not limited to the ability to:
  - (A) Develop real and personal assets and obtain and retain revenues therefrom;
  - (B) Develop and administer procurement regulations appropriate specifically to the university; and
  - (C) Retain legal counsel and resolve disputes using university assets; and as a public educational institution, the university should have unencumbered use of all its assets and resources;
- (7) Under this Act, it is the legislature’s expectation that the university board of regents and administration will implement autonomy through devolution in turn to the appropriate levels of the university system, particularly provosts, chancellors, deans, and directors, to realize fully the benefits of creativity, dynamism, and rapid adjustment ability which accrue from devolution and decentralization;
- (8) Under this Act, the university board of regents and administration are also delegated substantially increased responsibility and accountability for the consequences of their decisions and actions on matters within the purview of their autonomous authority; and
- (9) Under this Act, the university’s fulfillment of its autonomous functions and constitutional responsibilities is also assured in a number of ways, primarily:
  - (A) Continued periodic reports to the legislature on benchmark and performance indicators;
  - (B) Periodic reports to the legislature on:
    - (i) The revenues and expenditures of the programs included under three funds created by this Act;
    - (ii) The University of Hawaii tuition and fees special fund; and
    - (iii) Administrative decentralization efforts;
  - (C) Internal and external financial audits in compliance with federal and state regulations; and

- (D) Continued accreditation and program reviews, including regional accreditation by the Western Association of Schools and Colleges and specialized program accreditation.

By having autonomy over its revenues and other resources, the university will be empowered with full fiscal benefit, responsibility, and oversight to determine its future, thereby enhancing the quality of education and the greater public good.

The granting of autonomy to the University of Hawaii will achieve its worthy goals only if collaboration characterizes the way in which the university operates. Internally, the University President and those who report directly to the President must communicate with, and invite participation from, every level of the organization in making policy decisions. This kind of participation should permeate the entire organization. In many cases, students should also be invited to participate in the decision-making process. True collaboration will lead to a feeling of belonging, a sense of unity, and a common purpose among all members of the university community.

In addition to collaboration within the University community, collaboration between the University and the broader community is also critical. The broader community represents both the beneficiaries of the University, as well as resources that can help advance the University. All levels of the University should communicate and collaborate with representatives of commerce and industry, labor organizations, the public school system, other government agencies at the county, state, and federal levels, alumni, and other constituencies. Collaboration, both internal and external, is key to realizing the highest potential for both the University and the broader community.

The concept of collaboration is not inconsistent with the principals of collective bargaining, and the intent of this Act is to support this hard-earned right of employees. This Act extends collective bargaining by authorizing members of bargaining unit (7) to make retirement benefits an issue of their collective bargaining so that those benefits can be considered as part of the total cost package of the settlement.

It is the legislature's intent that the autonomy provided to the university under this Act be fully implemented, all with the overall goal of increasing the strength and reputation of the university as a world-class educational institution and thereby contributing to overall economic revitalization.

SECTION 2. Chapter 304, Hawaii Revised Statutes, is amended by adding twelve new sections to be appropriately designated and to read as follows:

**“§304- University attorneys.** The board of regents may appoint or retain by contract one or more attorneys who are independent of the attorney general, to provide legal services for the university, including:

- (1) Representation for the university in civil actions to which the university is a party, either directly or through the acts or omissions of its officers or employees;
- (2) Advice and assistance to ensure the lawful and efficient administration and operation of the university;
- (3) Review and approval of documents relating to the acquisition of land or interest in land by the university; and
- (4) Other legal service specified by the board of regents.

The board of regents may fix the compensation of the attorneys appointed pursuant to this section. Attorneys appointed or retained by contract shall be exempt from chapters 76, 77, and 89.

**§304- Indemnification of collaborating institutions.** (a) The board of regents may indemnify collaborating institutions from claims arising against them for the gross negligence or wilful misconduct of the university's officers, employees, and agents in the course of their employment, in connection with the university's use, storage, or disposal of materials owned or licensed by a collaborating institution that are purchased by the university from or transferred to the university by the collaborating institution for research or training purposes.

(b) The university shall use the materials transfer agreements recommended and approved by the Association of University Technology Managers to confer the indemnification authorized by this section.

(c) Indemnification claims authorized by this section shall be payable solely from the moneys and property of the university, and shall not constitute a general obligation of the State, or be secured directly or indirectly by the full faith and credit of the State or the general credit of the State, or by any revenues or taxes of the State. The board of regents may obtain loss insurance to cover the liability of the university that may arise under this section; provided that loss insurance for the university shall be at the university's expense.

**§304- Contracts for services provided by the research corporation of the University of Hawaii.** (a) Notwithstanding any law to the contrary, when the university determines that neither the university nor another state agency can more effectively or efficiently accomplish the purposes of the sponsored research and training activities, the university shall contract with the research corporation of the University of Hawaii established under chapter 307 to provide management and other services as described in subsection (b) to support the university's research and training activities. Contracts by the university with the research corporation pursuant to this section shall be limited to sponsored research and training projects, except that university projects supported by state-appropriated funds may also be contracted to the research corporation pursuant to rules adopted by the university.

(b) Management and other support services provided by the research corporation pursuant to this section may include:

- (1) The procurement of goods and services;
- (2) Employment of personnel; and
- (3) The provision of advance funding for research and training contracts and grants.

These services may be provided by the corporation to the university without regard to chapter 76, 77, 78, 89, or 103D.

**§304- University of Hawaii community services special fund.** (a) There is established the University of Hawaii community services special fund. Except as otherwise provided by law, all revenues, including interest, derived and collected from the university's provision of public service programs shall be deposited into the University of Hawaii community services special fund. The university may establish and collect fees and charges for public service programs. All revenues deposited into the University of Hawaii community services special fund shall be used exclusively for the costs of providing public service programs. The university may establish accounts under the community services special fund to facilitate the administration of this fund among the various campuses and operating units of the University of Hawaii system. All expenditures from this fund shall be subject to legislative appropriation.

(b) As used in this section, "public service programs" means:

- (1) Noncredit educational programs in professional development and training, personal growth, and cultural enrichment; and
- (2) Cooperative extension and consultative services.

**§304- University of Hawaii auxiliary enterprises special fund.** (a)

There is established the University of Hawaii auxiliary enterprises special fund. Except as otherwise provided by law, all revenues, including interest, derived and collected from the university's provision of auxiliary services shall be deposited into the University of Hawaii auxiliary enterprises special fund and shall be expended solely for the costs of providing these services. The university may establish and collect fees and charges for the costs of providing these services. The university also may transfer other funds into the University of Hawaii auxiliary enterprises special fund to offset the cost of these services. The university may establish accounts under the University of Hawaii auxiliary enterprises special fund to facilitate the administration of this fund among the various campuses and operating units of the University of Hawaii system. All expenditures from this fund shall be subject to legislative appropriation.

(b) As used in this section, "auxiliary services" means those services provided by the university to students, faculty, staff, and others that are ancillary to, but facilitate the instruction, research, and public service missions of the university, and may include food services, transportation services, counseling and guidance, and laboratory animal services.

**§304- University of Hawaii facilities use revolving fund.** (a)

There is established the University of Hawaii facilities use revolving fund, into which shall be deposited all revenues collected by the university for the use of university facilities, except as otherwise provided by law. The board of regents may establish fees and charges, including those for the use of university facilities, which include land, buildings, grounds, furnishings, and equipment. The board of regents shall be exempt from the public notice and public hearing requirements of chapter 91 in establishing and amending the fees and charges. The university may establish separate accounts within the revolving fund for major program activities. Funds deposited into the revolving fund accounts shall be expended to pay the costs of operating university facilities, including maintenance, administrative expenses, salaries, wages, and benefits of employees; contractor services, supplies, security, furnishings, equipment, janitorial services, insurance, utilities, and other operational expenses. All expenditures from this fund shall be subject to appropriation.

(b) As used in this section, "maintenance" includes repairs, replacement, renewals, operation, and administration.

**§304- University of Hawaii equipment.**

The board of regents may define or establish the value, useful life, and any other characteristic of the university's nonexpendable, tangible personal property, for all purposes for which these characteristics must be defined or established, including inventory and surplus property control and the preparation of financial statements, but excluding the determination of cost elements related to the issuance of general obligation bonds.

**§304- Appropriations for special and revolving funds of the University of Hawaii.**

In any fiscal year if the amount of revenues deposited into a special or revolving fund of the university exceeds the amount appropriated from that fund for that year, the president may approve expenditures in excess of the amount appropriated, up to the amount by which revenues for that fund exceed the appropriations from that fund for a fiscal year; provided the university shall submit annually a report to the governor and the legislature of all expenditures in excess of each fund's appropriation for each fiscal year.



**§304- Management of special and revolving funds of the University of Hawaii.** In managing special and revolving funds under its control, the university board of regents shall ensure that:

- (1) The purposes for which special and revolving funds are expended, encumbered, or transferred, benefit those upon whom fees and charges are imposed through these funds; and
- (2) Fees and charges are fair and equitable with respect to the level and quality of services provided to those upon whom fees and charges are imposed.

**§304- University of Hawaii workers' compensation and unemployment insurance compensation special fund.** There is established a University of Hawaii workers' compensation and unemployment insurance compensation special fund into which shall be deposited all revenues derived from assessments for workers' compensation costs and unemployment insurance compensation costs against the special fund payroll of University of Hawaii employees. Revenues deposited into this account may be expended by the university for all costs and expenses associated with the administration of the university's workers' compensation and unemployment insurance compensation programs, including benefits payments, claims administration, settlements, insurance premiums, and legal fees.

**§304- University of Hawaii workers' compensation and unemployment insurance compensation revolving fund.** There is established a University of Hawaii workers' compensation and unemployment insurance compensation revolving fund into which shall be deposited all revenues derived from assessments for workers' compensation costs and unemployment insurance compensation costs against the revolving fund payroll of University of Hawaii employees. Revenues deposited into this account may be expended by the university for all costs and expenses associated with the administration of the university's workers' compensation and unemployment insurance compensation programs, including benefits payments, claims administration, settlements, insurance premiums, and legal fees.

**§304- Special and revolving fund fees and charges.** In establishing or amending fees or charges that generate receipts for deposit into any University of Hawaii special or revolving fund, the board of regents shall be exempted from the public notice, public hearing, and gubernatorial approval requirements of chapter 91. The fees and charges may be established at an open meeting subject to the requirements of chapter 92. These fees and charges may include laboratory fees, special instructional fees, fees for admission to events, rental rates for facilities, equipment, or real property, and services provided to other government agencies and to the public.'

SECTION 3. Chapter 88, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§88- University of Hawaii optional retirement system.** (a) Notwithstanding any other law to the contrary, the board of regents may establish without regard to the public notice or public hearing requirements of chapter 91, a retirement system separate from the state employees' retirement system to provide retirement allowances and other benefits for University of Hawaii employees who are:

- (1) Members of bargaining unit (7); or
- (2) Other employees of the University of Hawaii or the community college system who are excluded from bargaining unit (7) pursuant to chapter 89.

(b) The general administration and the responsibility for the proper operation of the optional retirement system of the University of Hawaii shall be vested in the board of regents. The board of regents may manage the optional retirement system within the University of Hawaii or contract for the management of the optional retirement system.

(c) The board of regents may establish vesting periods for the members of the optional retirement system of the University of Hawaii that are different from those established in this chapter.

(d) The board of regents may establish retirement allowances and other benefits for the optional retirement system of the University of Hawaii.

(e) The employer's share of the cost of the optional retirement plan of the optional retirement system of the University of Hawaii shall not exceed the equivalent amount for any other group covered by this chapter.

(f) Any member of the state employees' retirement system when the optional retirement system of the University of Hawaii is established who is also:

- (1) A member of bargaining unit (7); or
- (2) Other employees of the University of Hawaii or the community college system who are excluded from bargaining unit (7) pursuant to chapter 89,

shall remain a member of the state employees' retirement system unless the person elects in writing on a form prescribed by the board of regents to terminate the person's membership. The form shall be submitted to the state employees' retirement system no later than ninety days after the establishment of the optional retirement system of the University of Hawaii.

(g) Any person hired after the establishment of the optional retirement system of the University of Hawaii who is:

- (1) A member of bargaining unit (7); or
- (2) Other employees of the University of Hawaii or the community college system who are excluded from bargaining unit (7) pursuant to chapter 89,

shall elect to be a member of the state employees' retirement system or the optional retirement system of the University of Hawaii. Upon an election the person may not transfer from one system to the other.

(h) Notwithstanding any other law to the contrary, retirement benefits for the optional retirement system of the University of Hawaii shall be a subject of collective bargaining negotiations for bargaining unit (7)."

SECTION 4. Section 26-52, Hawaii Revised Statutes, is amended to read as follows:

**"§26-52 Department heads and executive officers.** The salaries of the following state officers shall be as follows:

- (1) The salary of the superintendent of education shall be \$90,041 a year;
- (2) The salary of the president of the University of Hawaii shall be set by the board of regents; [provided that effective July 1, 2011, the salary of the president of the University of Hawaii shall be set by the legislature;]
- (3) The salaries of all department heads or executive officers of the departments of accounting and general services, agriculture, attorney general, budget and finance, business, economic development, and tourism, commerce and consumer affairs, Hawaiian home lands, health, human resources development, human services, labor and industrial relations, land and natural resources, public safety, taxation, and transportation shall be \$85,302 a year; and

- (4) The salary of the adjutant general shall be \$85,302 a year; provided that if this salary is in conflict with the pay and allowance fixed by the tables of the regular army or air force of the United States, the latter shall prevail.”

SECTION 5. Section 28-8.3, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) No department of the State other than the attorney general may employ or retain any attorney, by contract or otherwise, for the purpose of representing the State or the department in any litigation, rendering legal counsel to the department, or drafting legal documents for the department; provided that the foregoing provision shall not apply to the employment or retention of attorneys:

- (1) By the public utilities commission, the labor and industrial relations appeals board, and the Hawaii labor relations board;
- (2) By any court or judicial or legislative office of the State;
- (3) By the legislative reference bureau;
- (4) By any compilation commission that may be constituted from time to time;
- (5) By the real estate commission for any action involving the real estate recovery fund;
- (6) By the contractors license board for any action involving the contractors recovery fund;
- (7) By the trustees for any action involving the travel agency recovery fund;
- (8) By the office of Hawaiian affairs;
- (9) By the department of commerce and consumer affairs for the enforcement of violations of chapters 480 and 485;
- (10) As grand jury counsel;
- (11) By the Hawaiian home lands trust individual claims review panel;
- (12) By the Hawaii health systems corporation or any of its facilities;
- (13) By the auditor;
- (14) By the office of ombudsman;
- (15) By the insurance division; [or]
- (16) By the University of Hawaii; or
- [(16)] (17) By a department, in the event the attorney general, for reasons deemed by the attorney general good and sufficient, declines, to employ or retain an attorney for a department; provided that the governor thereupon waives the provision of this section.”

2. By amending subsection (c) to read:

“(c) Every attorney employed by any department on a full-time basis, except an attorney employed by the public utilities commission, the labor and industrial relations appeals board, the Hawaii labor relations board, the office of Hawaiian affairs, the Hawaii health systems corporation, the department of commerce and consumer affairs in prosecution of consumer complaints, insurance division, the University of Hawaii, the Hawaiian home lands trust individual claims review panel, or as grand jury counsel, shall be a deputy attorney general.”

SECTION 6. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

“**§36-27 Transfers from special funds for central service expenses.** Except as provided in this section, and notwithstanding any other law to the

contrary, from time to time the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special summer school and intersession fund under section 302A-1310;
- (2) School cafeteria special funds of the [community colleges and the] department of education;
- (3) Special funds of [the student housing, summer session, college of continuing education and community service, campus center, Kau‘iokahaloa Iki faculty housing development, and the bookstores of] the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center capital special fund under section 206X-10.5 and the convention center operations special fund under section 206X-10.6;
- (6) Special funds established by section 206E-6;
- (7) Housing loan program revenue bond special fund;
- (8) Housing project bond special fund;
- (9) Aloha Tower fund created by section 206J-17;
- (10) Domestic violence prevention special fund under section 321-1.3;
- (11) Spouse and child abuse special account under section 346-7.5;
- (12) Spouse and child abuse special account under section 601-3.6;
- (13) Funds of the employees’ retirement system created by section 88-109;
- (14) Unemployment compensation fund established under section 383-121;
- (15) Hawaii hurricane relief fund established under chapter 431P; and
- [ (16) The University of Hawaii tuition and fees special fund; and
- (17)] (16) [Division of community hospitals’] Hawaii health systems corporation special funds;

shall deduct five percent of all receipts of all other special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year.”

SECTION 7. Section 36-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) Each special fund, except the:
- (1) Transportation use special fund established by section 261D-1;
  - (2) Special summer school and intersession fund under section 302A-1310;
  - (3) School cafeteria special funds of [the community colleges, and] the department of education;
  - (4) Special funds of the [student housing, summer session, college of continuing education and community service, campus center, Kau‘iokahaloa Iki faculty housing development and bookstores of the] University of Hawaii;
  - (5) State educational facilities improvement special fund;
  - (6) Special funds established by section 206E-6;
  - (7) Aloha Tower fund created by section 206J-17;
  - (8) Domestic violence prevention special fund under section 321-1.3;
  - (9) Spouse and child abuse special account under section 346-7.5;

- (10) Spouse and child abuse special account under section 601-3.6;
- (11) Funds of the employees' retirement system created by section [89-109;] 88-109;
- (12) Unemployment compensation fund established under section 383-121;
- (13) Hawaii hurricane relief fund established under chapter 431P;
- (14) Convention center capital special fund established under section 206X-10.5 and the convention center operations special fund established under section 206X-10.6; and
- [(15) The University of Hawaii tuition and fees special fund; and
- (16)] (15) [Division of community hospitals'] Hawaii health systems corporation special funds;

shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned."

SECTION 8. Section 37-53, Hawaii Revised Statutes, is amended to read as follows:

**"§37-53 Transfer of special funds.** At any time during a fiscal year, notwithstanding any other law to the contrary, any department may, with the approval of the governor or the director of finance if so delegated by the governor, transfer from any special fund relating to such department to the general revenues of the State all or any portion of moneys determined to be in excess of fiscal year requirements for such special fund, except for special funds under the control of the department of transportation relating to highways, airports, transportation use, and harbors activities, [and] special funds under the control of the [division of community hospitals of the department of health.] Hawaii health systems corporation, and special funds of the University of Hawaii. At any time the department of transportation, with the approval of the governor or the director of finance if so delegated by the governor, may transfer from any special fund under the control of the department of transportation, or from any account within any such special fund, to the general revenues of the State or to any other special fund under the control of the department of transportation all or any portion of moneys determined to be in excess of requirements for the ensuing twelve months determined as prescribed by rules adopted pursuant to chapter 91; provided that no such transfer shall be made which would cause a violation of federal law or federal grant agreements."

SECTION 9. Section 37-68, Hawaii Revised Statutes, is amended to read as follows:

**"§37-68 Responsibilities of agencies.** Under such rules as may be prescribed by the director of finance with the approval of the governor:

- (1) Every agency assigned the task of developing programs and preparing program and financial plans, budgetary requests, and program performance reports shall develop such programs and prepare such plans, requests, and reports and submit the same to the director of finance at such times, on such forms, and in such manner as the director may prescribe. For informational purposes, the University of Hawaii shall submit its program and financial plans, budgetary requests, and program performance reports to the legislature at the same time the university submits them to the director of finance. Where new programs are being proposed, every agency shall demonstrate that the program:
  - (A) Is an appropriate function of state government; and, as applicable

- (B) Can be implemented by the public sector as cost-effectively as the private sector while meeting the same plans, goals, objectives, standards, measures of effectiveness, wage, salary, conditions of employment, and employee benefit programs of the State[.];
- (2) Every agency administering state programs and every agency responsible for the formulation of programs and the preparation of program and financial plans, budgetary requests, and program performance reports, shall furnish the department of budget and finance all such documents and information as the department may from time to time require. Each agency shall make available to the legislature and any member or committee of either house of the legislature, all documents and information as may be requested[.]; and
- (3) The director of finance or any employee of the department of budget and finance, when duly authorized, for the purpose of securing information, shall have access to and may examine any books, documents, papers, or records of any agency.”

SECTION 10. Section 37-74, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) No appropriation transfers or changes between programs or agencies shall be made without legislative authorization; provided that:

- (1) Authorized transfers or changes, when made, shall be reported to the legislature;
- (2) Except with respect to appropriations to fund financing agreements under chapter 37D, the University of Hawaii shall have the flexibility to transfer [general fund appropriations] appropriated funds and positions for the operating cost category among programs [with the same or similar objectives], among cost elements in a program, and between quarters, as applicable; and the Hawaii health systems corporation shall have the flexibility to transfer special fund appropriations among community hospitals facilities as applicable; provided that the Hawaii health systems corporation shall maintain the integrity and services of each individual facility and shall not transfer appropriations out of any facility which<sup>1</sup> would result in a reduction of services offered by the facility, with due regard for statutory requirements, changing conditions, the needs of the programs, and the effective utilization of resources; and
- (3) The university shall account for each transfer implemented under this subsection in quarterly reports to the governor and annual reports at the end of each fiscal year to the legislature and the governor, which shall be prepared in the form and manner prescribed by the governor and shall include information on the sources and uses of the transfer.”

SECTION 11. Section 78-1, Hawaii Revised Statutes, is amended to read as follows:

“**§78-1 Citizenship and residence of government officials and employees; exceptions.** (a) All elective officers in the service of the government of the State or in the service of any county or municipal subdivision of the State shall be citizens of the United States and residents of the State for at least three years immediately preceding assumption of office.

(b) All appointive officers in the service of the government of the State or in the service of any county or municipal subdivision of the State who are employed as department heads, first assistants, first deputies, second assistants, or second deputies to a department head shall be citizens of the United States and residents of the State for at least one year immediately preceding their appointment; however, all others appointed in the service of the government of the State or in the service of any county or municipal subdivision of the State shall be citizens, nationals, or permanent resident aliens of the United States and residents of the State at the time of their appointment. A national or permanent resident alien appointed pursuant to this section shall not be eligible for continued employment unless such person diligently seeks citizenship upon becoming eligible to apply for United States citizenship.

(c) All employees in the service of the government of the State or in the service of any county or municipal subdivision of the State shall be citizens, nationals, or permanent resident aliens of the United States and residents of the State at the time of their application for employment.

“Resident” means a person who is physically present in the State at the time the person claims to have established the person’s domicile in the State and shows the person’s intent is to make Hawaii the person’s permanent residence. In determining this intent, the following factors shall be considered:

- (1) Maintenance of a domicile or permanent place of residence in the State;
- (2) Absence of residency in another state.

(d) For the purpose of obtaining services which are essential to the public interest for which no competent person with the qualifications under subsection (c) applies within forty-five days after the first public notice of the position or a notice of an examination therefor, which notice has been given more than once, and not more often than once a week, statewide, a person without the qualifications, upon prior certification by the state director of human resources development or the personnel director of the appropriate county, and with the approval of the chief executive officer for the State or the political subdivision concerned, may be employed.

(e) For the positions involved in the performance of services in planning and executing measures for the security of Hawaii and the United States, the employees shall be citizens of the United States in addition to meeting the requirement of residency in subsection (c).

[(f) The requirements of subsections (c), (d), and (g) shall not apply to persons recruited by the University of Hawaii under the authority of section 304-11; provided that:

- (1) All persons recruited as administrative/professional/technical personnel of the University of Hawaii shall be subject to the requirement of residency as defined under subsection (c) and the requirement of subsection (g); and
- (2) Appointment of persons to positions requiring highly specialized technical and scientific skills or knowledge may be made without consideration of residency.

(g) [(f)] A preference shall be granted to state residents who have filed resident income tax returns within the State or who have been claimed as a dependent on such a return at the time of their application for employment with the State or any county or municipal subdivision of the State.

For residents applying for positions covered by chapters 76 and 77, the preference shall be accomplished as provided in section 76-23.

For residents applying for positions not covered by chapters 76 and 77, the preference shall be accomplished by giving first consideration to such residents, if all other factors are relatively equal.

(g) This section shall not apply to persons recruited by the University of Hawaii under the authority of section 304-11.’’

SECTION 12. Section 83-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) [The] Except in the case of the University of Hawaii, the period of each temporary intergovernmental assignment shall not exceed two years; provided that an extension of up to two additional years may be granted by the director of human resources development of the State, the director of civil service of a county or the administrative director of the courts for officers and employees of the respective jurisdictions. The temporary intergovernmental assignment program for the University of Hawaii shall be under the jurisdiction of the board of regents which shall have the authority to approve all assignments; provided that the total period of an intergovernmental assignment shall not exceed five years. An agreement may be made between the sending and receiving agencies on matters relating to a temporary intergovernmental assignment, including but not limited to, the supervision of duties, the costs of salary and benefits, and travel and transportation expenses, none of which shall be contrary to the provisions of this chapter. Elected officials shall not be assigned from a sending agency nor detailed to a receiving agency. It shall not be mandatory for any employee to participate in any temporary intergovernmental assignment.’’

SECTION 13. Section 89-9, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Excluded from the subjects of negotiations are matters of classification and reclassification, benefits of but not contributions to the Hawaii public employees health fund, retirement benefits[,] except as provided in section 88-\_\_\_\_(h), and the salary ranges now provided by law; provided that the number of incremental and longevity steps, the amount of wages to be paid in each range and step, and movement between steps within the salary range shall be negotiable. The employer and the exclusive representative shall not agree to any proposal which would be inconsistent with merit principles or the principle of equal pay for equal work pursuant to sections 76-1, 76-2, 77-31, and 77-33, or which would interfere with the rights of a public employer to (1) direct employees; (2) determine qualification, standards for work, the nature and contents of examinations, hire, promote, transfer, assign, and retain employees in positions and suspend, demote, discharge, or take other disciplinary action against employees for proper cause; (3) relieve an employee from duties because of lack of work or other legitimate reason; (4) maintain efficiency of government operations; (5) determine methods, means, and personnel by which the employer’s operations are to be conducted; and take such actions as may be necessary to carry out the missions of the employer in cases of emergencies; provided that the employer and the exclusive representative may negotiate procedures governing the promotion and transfer of employees to positions within a bargaining unit, procedures governing the suspension, demotion, discharge or other disciplinary actions taken against employees, and procedures governing the layoff of employees; provided further that violations of the procedures so negotiated may be the subject of a grievance process agreed to by the employer and the exclusive representative.’’

SECTION 14. Section 105-6, Hawaii Revised Statutes, is amended to read as follows:



**“§105-6 Inscription on state motor vehicles.** Unless excepted, every motor vehicle owned or controlled by the State shall bear on both sides thereof a facsimile of the state seal and beneath the seal the words “For Official Use Only” and the name of the department, commission, board, bureau, office, agency, or instrumentality thereof controlling or possessing such motor vehicle. This section shall not apply to such motor vehicles as are furnished the governor, lieutenant governor, chief justice of the supreme court, and the president of the University of Hawaii or to such motor vehicles as are used in any ridesharing program of the State, for undercover investigative work, law enforcement, and other functions as approved by the comptroller. Motor vehicles owned or controlled by the University of Hawaii may bear the University of Hawaii logo or seal, or both, in lieu of the state seal.”

SECTION 15. Section 304-4, Hawaii Revised Statutes, is amended to read as follows:

**“§304-4 Powers of regents; official name.** (a) The board of regents shall have management and control of the general affairs, and exclusive jurisdiction over the internal organization and management, of the university. It may appoint a treasurer and such other officers as it deems necessary. It may authorize any officer, elected or appointed by it, to approve and sign on its behalf any voucher or other document which the board may approve and sign. It may delegate to the president or the president’s designee the authority to render the final decision in contested case proceedings subject to chapter 91, as it deems appropriate. It may purchase or otherwise acquire lands, buildings, appliances, and other property for the purposes of the university and expend such sums of money as may be from time to time placed at the disposal of the university from whatever source. All lands, buildings, appliances, and other property so purchased or acquired shall be and remain the property of the university to be used in perpetuity for the benefit of the university. The board of regents, in accordance with law, shall manage the inventory, equipment, surplus property, and expenditures of the university and, subject to chapter 91, may adopt rules, further controlling and regulating the same.

(b) The board may charge [a] resident and nonresident tuition [fee] fees for regular courses of instruction at any University of Hawaii campus, including any community college; provided that the tuition fee for nonresident students, both undergraduate and graduate, shall be not less than two times the tuition fee for resident students, but in no event less than two times the undergraduate tuition fee for resident students at the Manoa Campus].

The board may also charge other fees for special programs of instruction, as well as laboratory fees, course fees, fees for student activities, and an information technology user fee. The board may charge other fees for summer session or evening courses, including differential fees for nonresident students.

The board may waive entirely or reduce the tuition fee or any of the other fees for graduate teaching and research assistants. The board may enter into agreements with government and university officials of any other state or foreign country to provide for reciprocal waiver of the nonresident tuition and fee differential. The board may waive the nonresident tuition and fee differential for selected students from Pacific and Asian jurisdictions when their presence would be beneficial to the university or the State. The board may waive entirely or reduce the tuition fee or any of the other fees for students, resident or nonresident. The board shall determine the percentage of allowable tuition and fee waivers for financial need and other university priorities. These tuition waivers and waivers of the nonresident tuition and fee differential shall be awarded in accordance with guidelines established by the board.

(c) The board shall adopt the necessary rules defining residence for tuition purposes herein; provided that the basic rule shall be that a student shall qualify for the resident tuition fee only if the following criteria are met:

- (1) The adult student, or in the case of a minor student, the student's parents or guardians, has been a bona fide resident of this State for at least twelve consecutive months next preceding the student's first day of officially scheduled instruction for any semester or term in which the student is enrolling at the particular college or campus; and
- (2) The adult or minor student has not been claimed as a dependent for tax purposes for at least twelve months next preceding the student's first day of officially scheduled instruction for any semester or term in which the student is enrolling at the particular college or campus by the student's parents or guardians who are nonresidents of the State; provided that this provision shall not apply in cases where the parent claiming the student as a dependent is entitled to do so under a child support order or agreement issued or entered into in conjunction with a divorce proceeding or legal separation agreement, and the other parent and the student meet the criteria set forth in paragraph (1).

(d) The board shall develop internal policies and procedures for the procurement of goods, services, and construction, consistent with the goals of public accountability and public procurement practices, but not subject to chapter 103D. However, where possible, the board is encouraged to use the provisions of chapter 103D; provided that the use of one or more provisions of chapter 103D shall not constitute a waiver of the exemption of chapter 103D and shall not subject the board to any other provision of chapter 103D.

(e) The board may enter into concession agreements without regard to chapter 102.

~~(d)]~~ (f) The official name of the board shall be Board of Regents, University of Hawaii, and the board shall adopt and use a common seal by which all official acts shall be authenticated.”

SECTION 16. Section 304-6, Hawaii Revised Statutes, is amended to read as follows:

**“§304-6 Suits.** (a) The university may sue and be sued in its corporate name[; however, it]. Notwithstanding any other law to the contrary, all claims arising out of the acts or omissions of the university or the members of its board of regents, its officers, or its employees, including claims permitted against the State under chapter 661, and claims for torts permitted against the State under chapter 662, may be brought only pursuant to this section, and only against the university. However, the university shall be subject to suit only in the manner provided for suits against the State, including section 661-11, and any liability incurred by the university in such a suit shall be solely the liability of the [State. For the purposes of this provision, members of the board of regents are “employees of the State” as the term is used in chapter 662.] university, shall be payable solely from the moneys and property of the university, and shall not constitute a general obligation of the State, or be secured directly or indirectly by the full faith and credit of the State or the general credit of the State, or by any revenue or taxes of the State. All defenses available to the State, as well as all limitations on actions against the State, shall be applicable to the university.

(b) The university shall be represented by attorneys appointed or hired by the board of regents pursuant to section 304- , and the board of regents, upon the advice of its attorneys, may arbitrate, compromise, or settle any claim, action, or suit brought against the university pursuant to this section. Any claim compromised or

settled under this subsection shall be payable solely from the moneys and property of the university and shall not constitute a general obligation of the State, or be secured directly or indirectly by the full faith and credit of the State or the general credit of the State, or by any revenue or taxes of the State.

(c) Rights and remedies conferred by this section shall be exclusive and shall not be construed to authorize any other claim, suit, or action against the State. In addition, a judgment, compromise, or settlement in an action brought against the university under this section shall constitute a complete bar to any action brought by the claimant, by reason of the same subject matter, against the State or an officer or employee of the university.

(d) The university may purchase insurance to cover any claims anticipated under this section.”

SECTION 17. Section 304-7.5, Hawaii Revised Statutes, is amended to read as follows:

**“[[§304-7.5]] Budget appropriations; University of Hawaii.** (a) Beginning in fiscal year [1997-1998,] 1998-1999, and every year thereafter, the [legislature shall formulate general fund budget appropriations for the University of Hawaii by combining:

- (1) A base figure representing all operating general fund amounts appropriated to the University of Hawaii for fiscal year 1994-1995; and
- (2) All costs borne by the University of Hawaii for:
  - (A) All collective bargaining agreements entered into after fiscal year 1995-1996;
  - (B) Any new program or expansion of an existing program mandated by the legislature;
  - (C) Tuition waivers mandated by the legislature;
  - (D) Increases in enrollment; and
  - (E) Adjustments for inflation.

(b) general fund budget appropriations for the University of Hawaii shall be an amount not less than three times and not greater than five times the amount of regular tuition and related fee revenues estimated for that fiscal year.

(b) Any general fund budget appropriation for the University of Hawaii for operating purposes for any fiscal year shall include the consideration of:

- (1) The fiscal condition of the State;
- (2) Enrollment;
- (3) Access to educational opportunity;
- (4) The mix of resident and nonresident students; and
- (5) Community service and noninstruction programs.

(c) No revenue received by the University of Hawaii pursuant to the University of Hawaii tuition and fees special fund established under section 304-16.5 may be used by the governor or the director of finance as a justification for reducing any budget request or allotment to the University of Hawaii unless the university requests such a reduction.”

SECTION 18. Section 304-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**“(a) Moneys appropriated by the legislature for the university shall be payable by the director of finance, upon vouchers approved by the board of regents or by any officer elected or appointed by the board under section 304-4 and authorized by the board to approve such vouchers on behalf of the board. All moneys received by or on behalf of the board of the university shall be deposited with the**

director of finance, except that any moneys received from the federal government or from private contributions shall be deposited and accounted for in accordance with conditions established by the agencies or persons from whom the moneys are received and except that with the concurrence of the director of finance, moneys received from the federal government for research, training, and other related purposes of a transitory nature and moneys in trust, special, or revolving funds administered by the university may be deposited in depositories other than the state treasury[.]; provided that the university informs the director of finance of the depositories in which moneys from the funds have been deposited, and submits copies of annual statements from each of the depositories in which the moneys from the funds are deposited. All income from regular credit tuition and tuition related course and fee charges against students shall be deposited to the credit of the [student] University of Hawaii tuition and fees special fund pursuant to section 304-16.5. [Income derived from the sale of goods or services shall be deposited to the credit of the general fund of the State; provided that income] Income from university projects as defined and described in sections 306-1 to 306-12, may be credited to special or other funds.”

SECTION 19. Section 304-11, Hawaii Revised Statutes, is amended to read as follows:

“**§304-11 [Faculty.] Personnel.** [The faculty] Personnel of the university not subject to chapters 76 and 77 shall be under the direction of a president who shall be appointed by the board of regents. The board shall appoint such deans, directors, [other] members of the faculty, and other employees as may be required to carry out the purposes of the institution, prescribe their salaries and terms of service, where such salaries and terms of service are not specifically fixed by legislative enactment, make and enforce rules governing sabbatical and professional improvement leaves with or without pay, consistent with the practice of similar institutions on the mainland, and notwithstanding the laws of the State relating to vacations of the officers and employees of the State.”

SECTION 20. Section 304-16.5, Hawaii Revised Statutes, is amended to read as follows:

“**§304-16.5 University of Hawaii tuition and fees special fund; tuition schedule and waivers.** (a) There is established the University of Hawaii tuition and fees special fund into which shall be deposited all revenue collected by the university for regular, summer, and continuing education credit tuition, tuition related course and fee charges, and any other charges to students, except as provided by law. Moneys deposited into the fund shall be expended to maintain or improve the university’s programs and operations and shall not be:

- (1) Used as a justification for reducing any budget request or allotment to the University of Hawaii unless the university requests such a reduction;
- (2) Transferred unless otherwise authorized by the legislature; and
- (3) Restricted by the governor or the director of finance without the prior approval of the legislature.

Any rule, policy, or action of any agency or individual in contravention of this subsection shall be void as against public policy.

[ (b) Notwithstanding section 304-4, resident undergraduate tuition shall not exceed thirty per cent of the estimated average annual cost of education; provided that the tuition for any apprenticeship training program at the community colleges shall be at least 30 cents per clock hour.

For the purposes of this subsection, the “estimated average annual cost of education”, as formulated by the university, shall include, but not be limited to, all instructional costs, all student service costs, and a pro rata share of institutional support, academic support, and fringe benefits.

(c) (b) The board of regents, or its designated representatives, is authorized to grant, modify, or suspend tuition waivers. The board of regents shall provide a report and make recommendations as appropriate to the legislature on all tuition waivers no later than twenty days prior to the convening of each regular session. This<sup>2</sup> report shall include[,] but not be limited to[,] the number of tuition waivers and scholarships, stipends, and mandatory fees granted to financially needy students from ethnic groups that are under-represented in the student population of the University of Hawaii through the Hawaii opportunity in education endowment special fund.

(d) (c) Any law to the contrary notwithstanding, the board of regents may authorize expenditures from this fund for the purpose of generating private donations for deposit into the University of Hawaii [foundation] Foundation for the purposes of the university. Any expenditure authorized pursuant to this subsection shall be for a public purpose and shall not be subject to chapters 42F, 103, 103D, and 103F. The university shall submit a comprehensive report to the legislature every regular session detailing the use of any funds authorized by the board under this subsection.”

SECTION 21. Section 304-32, Hawaii Revised Statutes, is amended to read as follows:

**“§304-32 Aquarium admission fee.** The board of regents may charge the public a fee for admission to the aquarium. In establishing the aquarium admission fee, the board of regents shall be exempt from the public notice, public hearing, and gubernatorial approval requirements of chapter 91. The fees may be established at an open public meeting subject to the requirements of chapter 92.

[All funds collected from fees charged in accordance with this section shall be deposited in the state aquarium special fund.]”

SECTION 22. Section 304-33, Hawaii Revised Statutes, is amended to read as follows:

**“§304-33 State aquarium special fund.** There is established [a] the state aquarium special fund into which shall be deposited all revenues derived from all admission fees collected in conjunction with the operation of the state aquarium. The special fund may be deposited in depositories other than the state treasury; provided that the university:

- (1) Informs the director of finance of the depositories in which moneys from the special fund have been deposited; and
- (2) Submits copies of annual statements from each of the depositories in which the moneys from the special fund are deposited.

Moneys deposited in this fund shall be expended for the operation of the state aquarium. The special fund shall not be subject to sections 36-27 and 36-30 relating to special fund reimbursements to the state general fund.”

SECTION 23. Section 304-111, Hawaii Revised Statutes, is amended to read as follows:

**“§304-111<sup>3</sup> Participation and membership in the Western Governors University[,] and other educational consortia.** [On behalf of the State of Hawaii,

the governor shall serve as a member of the Western Governors University, a Utah nonprofit corporation.] The board of regents of the University of Hawaii [is authorized to] may participate in [the activities of the Western Governors University. The board of regents shall perform any act that may be deemed requisite for membership in the Western Governors University.] and perform any act related to membership in an educational consortium involving other institutions or jurisdictions that advance the instruction, research, or service mission of the university, including the Western Governors University.”

SECTION 24. Section 12 of Act 321, Session Laws of Hawaii 1986, as amended by section 69 of Act 283, Session Laws of Hawaii 1987, as amended by section 7 of Act 371, Session Laws of Hawaii 1989, as amended by section 3 of Act 163, Session Laws of Hawaii 1991, as amended by section 2 of Act 314, Session Laws of Hawaii 1993, as amended by section 22 of Act 8, Special Session Laws of Hawaii 1993, and as amended by section 1 of Act 180, Session Laws of Hawaii 1997, is amended to read as follows:

“SECTION 12. This Act shall take effect on July 1, 1986, and be repealed as of June 30, [2000;] 2005; provided that on repeal sections 40-1, 40-2, 40-4, 40-6, and 40-81, Hawaii Revised Statutes, are reenacted in the form in which they read on June 30, 1986; and section 40-58, Hawaii Revised Statutes, is reenacted in the form in which it read on June 30, 1991.”

SECTION 25. The University of Hawaii shall abolish the following administratively-created special funds:

- (1) University of Hawaii at Manoa summer session special fund;
- (2) University of Hawaii at Manoa college of continuing education and community service special fund;
- (3) University of Hawaii at Manoa theater group special fund;
- (4) University of Hawaii at Manoa center for student development special fund;
- (5) University at Manoa food service special fund;
- (6) University of Hawaii at Manoa laboratory school cafeteria special fund;
- (7) University of Hawaii at Hilo continuing education and community service special fund;
- (8) University of Hawaii at Hilo theater group special fund;
- (9) University of Hawaii at Hilo summer session special fund;
- (10) West Oahu college summer session special fund;
- (11) University of Hawaii at Manoa laboratory animal service special fund;
- (12) University of Hawaii at Manoa transportation services special fund;
- (13) University of Hawaii at Manoa auxiliary services special fund; and
- (14) University of Hawaii at Hilo auxiliary services special fund.

All fund balances for the University of Hawaii at Manoa summer session special fund, the University of Hawaii at Hilo summer session special fund, and the West Oahu College summer session special fund remaining unencumbered and unexpended as of June 30, 1998, shall be transferred to the credit of the University of Hawaii tuition and fees special fund. All fund balances of the University of Hawaii at Manoa continuing education and community services special fund, the University of Hawaii at Manoa theater group special fund, the University of Hawaii at Hilo continuing education and community service special fund, and the University of Hawaii at Hilo theater group special fund, remaining unencumbered and unexpended as of June 30, 1998, shall be transferred to the credit of the University of Hawaii community services special fund established in section 2 of this Act. All fund balances of the University of Hawaii at Manoa center for student development

special fund, the University of Hawaii at Manoa food service special fund, the University of Hawaii at Manoa laboratory school cafeteria special fund, the University of Hawaii at Manoa transportation services special fund, the University of Hawaii at Manoa auxiliary services special fund, the University of Hawaii at Hilo auxiliary services special fund, and the University of Hawaii at Manoa laboratory animal services special fund remaining unencumbered and unexpended as of June 30, 1998, shall be transferred to the credit of the University of Hawaii auxiliary enterprises special fund established in section 2 of this Act. All encumbrances of the administratively created special funds listed above remaining unliquidated as of June 30, 1998, shall become obligations of those funds into which unencumbered and unexpended balances are transferred.

SECTION 26. The president of the University of Hawaii shall submit to the legislature an annual report of the revenues and expenditures of the individual programs of the University of Hawaii community service special fund, and the University of Hawaii auxiliary enterprises special fund, and the University of Hawaii facilities use revolving fund and the University of Hawaii tuition and fees special fund no later than twenty days prior to the convening of each regular session until, and including, the regular session of 2003.

SECTION 27. The president of the University of Hawaii shall submit to the legislature an annual report of decentralized decision-making in the university system no later than twenty days prior to the convening of each regular session until, and including, the regular session of 2003. The report shall also include the improving of communication and collaboration within the university system.

SECTION 28. The board of regents and the director of finance shall work cooperatively to reach a mutual agreement on a mechanism or procedure for financing the purchase of equipment for University of Hawaii buildings. This mechanism or procedure shall be designed to provide substantial flexibility for the university.

SECTION 29. The board of regents, the director of finance, and the attorney general shall work cooperatively to reach a mutual agreement on procedures designed to substantially facilitate the use of financing agreements by the University of Hawaii under chapter 37D, Hawaii Revised Statutes, for implementation no later than January 4, 1999. The director of finance shall submit a report of these procedures no later than twenty days prior to the convening of the regular session of 1999.

SECTION 30. There is appropriated out of the University of Hawaii facilities use revolving fund the following sums for fiscal year 1998-1999 to the following programs to further the purposes of the revolving fund:

UOH100, University of Hawaii at Manoa	\$ 150,000
UOH210, University of Hawaii at Hilo	100,000
UOH800, University of Hawaii Community Colleges	200,000

The sums appropriated shall be expended by the University of Hawaii for the purposes of this Act.

SECTION 31. There is appropriated out of the funding sources indicated below the following sums or so much thereof as may be necessary for fiscal year 1998-1999, to be expended for the following programs:

UOH900, systemwide support, workers' compensation costs and unemployment insurance compensation costs of University of Hawaii state employees

**ACT 116**

University of Hawaii workers' compensation and unemployment insurance compensation special fund	\$ 300,000
University of Hawaii workers' compensation and unemployment insurance compensation revolving fund	\$ 300,000

The sums appropriated shall be expended by the University of Hawaii for the purposes of this Act.

SECTION 32. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>4</sup>

SECTION 33. This Act shall take effect on July 1, 1998; provided that the amendments made to sections 36-27 and 36-30 by this Act shall not be repealed when those sections are reenacted on July 1, 2000, pursuant to section 13 of Act 216, Session Laws of Hawaii 1997.

(Approved June 16, 1998.)

**Notes**

1. Prior to amendment "that" appeared here.
2. Prior to amendment "the" appeared here.
3. So in original.
4. Edited pursuant to HRS §23G-16.5.

**ACT 116**

H.B. NO. 2500

A Bill for an Act Relating to the State Budget.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act shall be known and may be cited as the Supplemental Appropriations Act of 1998.

SECTION 2. This Act amends Act 328, Session Laws of Hawaii 1997, and other appropriations and authorizations effective during fiscal biennium 1997-1999.

SECTION 3. Act 328, Session Laws of Hawaii 1997, is amended by amending section 3 to read as follows:

“SECTION 3. APPROPRIATIONS. The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are hereby appropriated or authorized, as the case may be, from the means of financing specified to the expending agencies designated for the fiscal biennium beginning July 1, 1997, and ending June 30, 1999. The total expenditures and the number of positions in each fiscal year of the biennium shall not exceed the sums and the number indicated for each year, except as provided elsewhere in this Act, or as provided by general law.



PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
<b>A. ECONOMIC DEVELOPMENT</b>							
1.	BED102	COMMERCE AND INDUSTRY					
	OPERATING		BED	35.00*		32.00*	
			BED	5,149,897A		4,506,181A	
			BED	150,000B		195,578B	
			BED			3.00*	
			BED	6,450,000W		6,621,666W	
2.	BED113	STATE TOURISM OFFICE					
	OPERATING		BED	7.00*		7.00*	
			BED	28,181,974A		14,178,338A	
			BED	39,189,300B		42,182,000B	
	INVESTMENT CAPITAL		BED	3,760,000C		2,903,000C	
3.	BED143	HIGH TECHNOLOGY DEVELOPMENT CORPORATION					
	OPERATING		BED	1.50*		1.50*	
			BED	1,583,514A		1,400,123A	
			BED	1.50*		1.50*	
			BED	1,682,641B		1,748,241B	
	INVESTMENT CAPITAL		BED	700,000C			
			BED			700,000N	
4.	BED107	FOREIGN TRADE					
	OPERATING		BED	22.00*		22.00*	
			BED	1,911,298B		1,921,298B	
5.	AGR101	FINANCIAL ASSISTANCE FOR AGRICULTURE					
	OPERATING		AGR	12.00*		12.00*	
			AGR	947,941B		947,941B	
			AGR	59,400T		59,400T	
			AGR	4,500,000W		4,500,000W	
6.	AGR122	PLANT PEST AND DISEASE CONTROL					
	OPERATING		AGR	98.00*		98.00*	
			AGR	3,928,017A		3,664,323A	
			AGR	290,010N		264,282N	
			AGR	328,600T		328,600T	
			AGR			1.00*	
			AGR			116,276U	
7.	AGR131	ANIMAL QUARANTINE					
	OPERATING		AGR	58.00*		6.00*	
			AGR	2,268,723A		1,117,000A	
			AGR			52.00*	
			AGR			3,313,000B	
			AGR	254,857U		254,857U	
8.	AGR132	ANIMAL DISEASE CONTROL					
	OPERATING		AGR	21.50*		21.50*	
			AGR	974,244A		948,788A	
			AGR	15,000T		15,000T	
	INVESTMENT CAPITAL		AGS	800,000C			
9.	LNR172	FORESTRY - PRODUCTS DEVELOPMENT					
	OPERATING		LNR	20.00*		20.00*	
			LNR	953,015A		668,015A	
			LNR	200,000B		200,000B	
			LNR	2.00*		2.00*	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
			LNR	374,505N		374,505N	
10.	AGR151 -	QUALITY AND PRICE ASSURANCE					
	OPERATING		AGR	33.00*		30.00*	
				1,329,965A		1,197,244A	
			AGR			2.00*	
			AGR			250,000B	
			AGR	19,424N		19,424N	
			AGR	135,000T		135,000T	
			AGR	256,622W		256,622W	
11.	AGR171 -	AGRICULTURAL DEVELOPMENT & MARKETING					
	OPERATING		AGR	20.00*		20.00*	
				1,315,449A		1,225,897A	
			AGR	82,500N		82,500N	
			AGR	2,000T		2,000T	
12.	AGR141 -	AGRICULTURAL RESOURCE MANAGEMENT					
	OPERATING		AGR	9.00*		7.00*	
				287,820A		265,344A	
				2.00*		2.50*	
			AGR	384,907B		283,907B	
				10.00*		10.50*	
	INVESTMENT CAPITAL		AGR	862,713W		864,713W	
			AGR	1,280,000C		2,250,000C	
			AGR	550,000N			
13.	AGR161 -	AGRIBUSINESS DEVELOPMENT & RESEARCH					
	OPERATING		AGR	1.00*		1.00*	
				988,476A		1,006,905A	
			AGR	308,591W		308,591W	
14.	AGR192 -	GENERAL ADMINISTRATION FOR AGRICULTURE					
	OPERATING		AGR	30.00*		30.00*	
	INVESTMENT CAPITAL		AGS	1,297,898A		1,297,898A	
				700,000C			
15.	AGR102 -	FINANCIAL ASSISTANCE FOR AQUACULTURE					
	OPERATING		AGR	500,000W		500,000W	
16.	LNR153 -	COMMERCIAL FISHERIES AND AQUACULTURE					
	OPERATING		LNR	20.00*		16.00*	
				1,263,936A		1,148,000A	
			LNR	100,000B		100,000B	
			LNR	268,210N		268,210N	
17.	BED120 -	ENERGY DEVELOPMENT AND MANAGEMENT					
	OPERATING		BED	7.00*		7.00*	
				1,738,259A		1,726,259A	
			BED	1,457,875B		1,682,875B	
			BED	3,031,326N		3,031,326N	
			BED	101,709W		101,709W	
	INVESTMENT CAPITAL		BED	879,000C		2,170,000C	
18.	LNR141 -	WATER AND LAND DEVELOPMENT					
	OPERATING		LNR	3.00*		3.00*	
				328,240A		284,681A	
			LNR	110,000W		110,000W	
	INVESTMENT CAPITAL		LNR	9,192,000C		10,064,000C	

## PROGRAM APPROPRIATIONS

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				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
19.	BED130	ECON PLANNING & RESEARCH FOR ECON DEVELOPMENT					
	OPERATING		BED	19.00*		18.00*	
				1,072,472A		946,960A	
20.	BED142	GENERAL SUPPORT FOR ECONOMIC DEVELOPMENT					
	OPERATING		BED	49.00*		50.00*	
			BED	3,427,830A		2,910,090A	
			BED	3,745,298B		3,745,298B	
				4.00*		*	
			BED	972,000N		400,000N	
<b>B. EMPLOYMENT</b>							
1.	LBR111	WORKFORCE DEVELOPMENT					
	OPERATING		LBR	4.30*		4.30*	
			LBR	395,473A		394,222A	
			LBR	9,689,414B		9,689,414B	
				119.20*		119.20*	
			LBR	28,687,591N		36,087,591N	
			LBR	1,195,371U		1,195,371U	
2.	LBR123	APPRENTICESHIP & OTHER TRAINING PROGRAMS					
3.	LBR131	EMPLOYMENT AND TRAINING PROGRAMS					
4.	LBR135	COMMISSION ON EMPLOYMENT & HUMAN RESOURCES					
	OPERATING		LBR	5.00*		3.00*	
				199,355A		137,344A	
5.	LBR143	OCCUPATIONAL SAFETY & HEALTH					
	OPERATING		LBR	44.00*		35.00*	
			LBR	1,674,215A		1,547,084A	
			LBR	500,000B		500,000B	
				26.00*		26.00*	
			LBR	1,598,057N		1,598,057N	
						9.00*	
			LBR			158,881W	
6.	LBR152	WAGE STANDARDS & FAIR EMPLOYMENT PRACTICES					
	OPERATING		LBR	28.35*		28.35*	
			LBR	1,031,179A		987,420A	
						53,131U	
7.	LBR153	CIVIL RIGHTS COMMISSION					
	OPERATING		LBR	23.50*		21.50*	
			LBR	962,648A		907,044A	
				2.00*		4.00*	
			LBR	409,600N		409,600N	
8.	LBR161	PUBLIC AND PRIVATE EMPLOYMENT					
	OPERATING		LBR	2.00*		2.00*	
				507,114A		484,212A	
9.	LBR171	UNEMPLOYMENT COMPENSATION					
	OPERATING		LBR	166,510,310B		166,510,310B	
				231.90*		231.90*	
			LBR	12,395,923N		12,395,923N	
10.	LBR183	DISABILITY COMPENSATION					
				122.00*		119.00*	

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				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		OPERATING	LBR	4,699,306A		4,215,681A	
			LBR	20,694,213B		20,675,713B	
11.		HMS802 - VOCATIONAL REHABILITATION					
		OPERATING	HMS	25.95*		25.95*	
				3,653,306A		3,648,056A	
				89.55*		89.55*	
			HMS	8,114,891N		8,114,891N	
			HMS	1,050,000W		1,330,200W	
		INVESTMENT CAPITAL	AGS	99,000N			
12.		LBR901 - DLIR-DATA GATHERING, RESEARCH AND ANALYSIS					
		OPERATING	LBR	8.88*		8.88*	
				604,241A		581,396A	
				29.12*		29.12*	
			LBR	2,014,988N		2,014,988N	
13.		LBR902 - GENERAL ADMINISTRATION					
		OPERATING	LBR	29.12*		29.12*	
				1,236,701A		1,220,223A	
				34.52*		34.52*	
			LBR	2,331,328N		2,443,506N	
14.		LBR903 - OFFICE OF COMMUNITY SERVICES					
		OPERATING	LBR	5.00*		5.00*	
				5,356,372A		5,356,372A	
			LBR	300,000B		B	
				3.00*		3.00*	
			LBR	5,785,137N		5,785,137N	
15.		LBR812 - LABOR & INDUSTRIAL RELATIONS APPEALS BOARD					
		OPERATING	LBR	12.00*		12.00*	
				609,889A		590,077A	
<b>C. TRANSPORTATION FACILITIES</b>							
1.		TRN102 - HONOLULU INTERNATIONAL AIRPORT					
		OPERATING	TRN	659.75*		646.75*	
				69,943,856B		73,235,105B	
		INVESTMENT CAPITAL	TRN	49,893,000B		152,424,000B	
			TRN			31,350,000N	
2.		TRN104 - GENERAL AVIATION					
		OPERATING	TRN	3.00*		30.00*	
				860,229B		4,506,509B	
		INVESTMENT CAPITAL	TRN			2,600,000B	
3.		TRN111 - HILO INTERNATIONAL AIRPORT					
		OPERATING	TRN	81.00*		79.00*	
				8,263,653B		7,522,831B	
		INVESTMENT CAPITAL	TRN	5,533,000B		18,362,000B	
			TRN			200,000N	
4.		TRN114 - KE-AHOLE AIRPORT					
		OPERATING	TRN	99.00*		94.00*	
				8,245,171B		7,946,454B	
		INVESTMENT CAPITAL	TRN	24,236,000B		61,866,000B	
			TRN	4,000,000N		5,000,000N	

## PROGRAM APPROPRIATIONS

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				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
5.	TRN116	WAIMEA-KOHALA AIRPORT					
	OPERATING		TRN		2.00*		2.00*
				165,260B		158,148B	
6.	TRN118	UPOLU AIRPORT					
	OPERATING		TRN		7,473B		7,473B
7.	TRN131	KAHULUI AIRPORT					
	OPERATING		TRN		174.00*		172.00*
	INVESTMENT CAPITAL		TRN	14,623,404B		13,519,494B	
				11,570,000B		12,152,000B	
8.	TRN133	HANA AIRPORT					
	OPERATING		TRN		2.00*		2.00*
	INVESTMENT CAPITAL		TRN	146,912B		117,412B	
				250,000B			
9.	TRN135	KAPALUA AIRPORT					
	OPERATING		TRN		5.00*		5.00*
	INVESTMENT CAPITAL		TRN	882,965B		774,950B	
						250,000B	
10.	TRN141	MOLOKAI AIRPORT					
	OPERATING		TRN		15.00*		15.00*
	INVESTMENT CAPITAL		TRN	1,384,757B		1,217,461B	
				1,300,000B			
11.	TRN143	KALAUPAPA AIRPORT					
	OPERATING		TRN		1.00*		1.00*
	INVESTMENT CAPITAL		TRN	53,924B		53,924B	
						500,000B	
12.	TRN151	LANAI AIRPORT					
	OPERATING		TRN		10.00*		10.00*
	INVESTMENT CAPITAL		TRN	1,036,182B		1,038,906B	
						660,000B	
13.	TRN161	LIHUE AIRPORT					
	OPERATING		TRN		111.00*		108.00*
	INVESTMENT CAPITAL		TRN	9,152,722B		9,467,571B	
			TRN	10,550,000B		23,782,000B	
			TRN	6,900,000N		16,470,000N	
14.	TRN163	PORT ALLEN AIRPORT					
	OPERATING		TRN		1,860B		1,860B
15.	TRN195	AIRPORTS ADMINISTRATION					
	OPERATING		TRN		116.00*		114.00*
	INVESTMENT CAPITAL		TRN	149,623,628B		139,657,837B	
			TRN	21,485,000B		31,976,000B	
			TRN	565,000N		525,000N	
16.	TRN301	HONOLULU HARBOR					
	OPERATING		TRN		124.00*		124.00*
	INVESTMENT CAPITAL		TRN	13,452,311B		12,976,756B	
			TRN	10,000,000B		14,900,000B	
			TRN			7,000,000E	
17.	TRN303	BARBERS POINT HARBOR					
					4.00*		4.00*

PROGRAM APPROPRIATIONS

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				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		OPERATING	TRN	473,905B		455,432B	
		INVESTMENT CAPITAL	TRN	1,300,000B		2,250,000B	
			TRN	12,000,000E		10,000,000E	
18.	TRN305	- KEWALO BASIN			2.00*		2.00*
		OPERATING	TRN	760,578B		811,578B	
		INVESTMENT CAPITAL	TRN	1,400,000B			
19.	TRN311	- HILO HARBOR			11.00*		11.00*
		OPERATING	TRN	1,319,774B		1,329,359B	
		INVESTMENT CAPITAL	TRN	250,000B		2,600,000B	
20.	TRN313	- KAWAIHAE HARBOR			5.00*		5.00*
		OPERATING	TRN	603,373B		541,356B	
		INVESTMENT CAPITAL	TRN			3,000,000B	
21.	TRN331	- KAHULUI HARBOR			16.00*		16.00*
		OPERATING	TRN	1,690,718B		1,692,079B	
		INVESTMENT CAPITAL	TRN	1,000,000B			
			TRN	4,000,000E		5,000,000E	
22.	TRN341	- KAUNAKAKAI HARBOR			1.00*		1.00*
		OPERATING	TRN	244,818B		244,818B	
23.	TRN361	- NAWILIWILI HARBOR			14.00*		14.00*
		OPERATING	TRN	1,275,516B		1,233,732B	
24.	TRN363	- PORT ALLEN HARBOR			1.00*		1.00*
		OPERATING	TRN	232,759B		222,759B	
25.	TRN351	- KAUMALAPAU HARBOR			1.00*		1.00*
		OPERATING	TRN	214,930B		196,788B	
26.	TRN395	- HARBORS ADMINISTRATION			56.00*		56.00*
		OPERATING	TRN	34,086,086B		32,463,697B	
		INVESTMENT CAPITAL	TRN	2,625,000B		2,825,000B	
27.	TRN501	- OAHU HIGHWAYS			275.00*		275.00*
		OPERATING	TRN	34,790,585B		33,514,299B	
		INVESTMENT CAPITAL	TRN	500,000C		1,500,000C	
			TRN	36,832,000E		31,814,000E	
			TRN	28,280,000N		100,480,000N	
			TRN	800,000R		13,050,000R	
28.	TRN511	- HAWAII HIGHWAYS			128.00*		128.00*
		OPERATING	TRN	16,659,553B		15,288,952B	
		INVESTMENT CAPITAL	TRN	13,500,000B			
			TRN	1,925,000E		16,320,000E	

## PROGRAM APPROPRIATIONS

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				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
			TRN	2,200,000N		48,065,000N	
29.	TRN531	MAUI HIGHWAYS					
				79.00*		79.00*	
		OPERATING	TRN	9,766,170B		10,309,717B	
		INVESTMENT CAPITAL	TRN	45,000,000B			
			TRN	28,330,000E		25,920,000E	
			TRN	13,850,000N		43,530,000N	
30.	TRN541	MOLOKAI HIGHWAYS					
				12.00*		12.00*	
		OPERATING	TRN	2,841,414B		3,723,057B	
		INVESTMENT CAPITAL	TRN	505,000E		3,225,000E	
			TRN	15,000N		485,000N	
31.	TRN551	LANAI HIGHWAYS					
				5.00*		5.00*	
		OPERATING	TRN	564,876B		581,500B	
32.	TRN561	KAUAI HIGHWAYS					
				51.00*		51.00*	
		OPERATING	TRN	8,864,653B		7,786,712B	
		INVESTMENT CAPITAL	TRN	7,210,000B			
			TRN	6,580,000E		8,025,000E	
			TRN	12,175,000N		17,035,000N	
33.	TRN595	HIGHWAYS ADMINISTRATION					
				72.00*		72.00*	
		OPERATING	TRN	57,740,602B		64,438,685B	
			TRN	1,200,000N		4,600,000N	
		INVESTMENT CAPITAL	TRN	6,000,000B		3,000,000B	
			TRN	13,625,000E		12,965,000E	
			TRN	9,385,000N		11,945,000N	
34.	TRN597	HIGHWAY SAFETY					
				37.00*		37.00*	
		OPERATING	TRN	5,266,679B		5,288,880B	
				4.00*		4.00*	
			TRN	306,735N		306,735N	
35.	TRN995	GENERAL ADMINISTRATION					
				87.00*		87.00*	
		OPERATING	TRN	9,388,035B		9,822,099B	
<b>D. ENVIRONMENTAL PROTECTION</b>							
1.	HTH840	ENVIRONMENTAL MANAGEMENT					
				56.00*		56.00*	
		OPERATING	HTH	2,453,071A		2,409,367A	
				48.00*		48.00*	
			HTH	6,096,502B		6,196,502B	
				24.00*		24.00*	
			HTH	3,112,716N		3,074,616N	
				34.00*		45.00*	
		INVESTMENT CAPITAL	HTH	46,527,330W		47,510,685W	
			HTH	6,510,000C		4,197,000C	
			HTH	29,434,000N		20,981,000N	
2.	AGR846	PESTICIDES					
				21.00*		20.00*	

PROGRAM APPROPRIATIONS

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				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
	OPERATING		AGR	739,790A		718,646A	
			AGR	350,000N		350,000N	
			AGR	250,000W		250,000W	
3.	LNR401 - AQUATIC RESOURCES						
	OPERATING		LNR	27.00*		27.00*	
			LNR	2,243,631A		2,136,062A	
			LNR	1.00*		1.00*	
			LNR	1,081,717N		1,081,717N	
4.	LNR402 - FORESTS AND WILDLIFE RESOURCES						
	OPERATING		LNR	54.50*		54.50*	
			LNR	2,551,525A		2,413,236A	
			LNR	4.50*		4.50*	
	INVESTMENT CAPITAL		LNR	860,485N		860,485N	
			LNR	65,000C		975,000C	
			LNR			2,565,000N	
5.	LNR404 - WATER RESOURCES						
	OPERATING		LNR	19.00*		19.00*	
			LNR	1,443,509A		1,436,909A	
	INVESTMENT CAPITAL		LNR	620,852B		110,704B	
			LNR	1,265,000C			
6.	LNR405 - CONSERVATION & RESOURCES ENFORCEMENT						
	OPERATING		LNR	98.50*		97.50*	
			LNR	4,529,478A		4,757,491A	
			LNR	18.00*		18.00*	
			LNR	1,292,752B		1,558,442B	
			LNR	2.50*		2.50*	
			LNR	627,865N		627,865N	
			LNR	1.00*		1.00*	
	INVESTMENT CAPITAL		LNR	11,660W		11,660W	
			LNR	90,000N		850,000N	
7.	LNR407 - NATURAL AREA RESERVES & MANAGEMENT						
	OPERATING		LNR	27.00*		27.00*	
			LNR	1,234,481A		1,180,028A	
			LNR	1,500,000B		1,500,000B	
8.	HTH850 - POLICY DVLPMENT,COORD & ANLYS FOR NAT P ENVR						
	OPERATING		HTH	5.00*		7.00*	
			HTH	228,946A		671,838A	
			HTH			4.00*	
			HTH			972,000N	
9.	LNR906 - LNR-NATURAL PHYSICAL ENVIRONMENT						
	OPERATING		LNR	34.00*		34.00*	
	INVESTMENT CAPITAL		LNR	1,598,248A		1,500,301A	
			LNR	1,560,000C		1,560,000C	
10.	HTH849 - ENVIRONMENTAL HEALTH ADMINISTRATION						
	OPERATING		HTH	16.50*		14.50*	
			HTH	778,698A		699,893A	
			HTH	21.50*		21.50*	
			HTH	2,538,146N		2,538,146N	
			HTH	9.00*		9.00*	
			HTH	1,253,182W		2,483,882W	



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ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
<b>E. HEALTH</b>							
1.	HTH101 - TUBERCULOSIS/HANSEN'S DISEASE CONTROL						
	OPERATING		HTH	36.00*		36.00*	
				2,174,346A		2,097,683A	
				3.00*		3.00*	
	INVESTMENT CAPITAL		HTH	1,795,669N		1,795,669N	
			AGS	140,000C			
2.	HTH111 - HANSEN'S DISEASE INSTITUTIONAL SERVICES						
	OPERATING		HTH	69.00*		68.00*	
	INVESTMENT CAPITAL		AGS	3,875,458A		3,880,864A	
				365,000C			
3.	HTH121 - STD/AIDS PREVENTION SERVICES						
	OPERATING		HTH	13.00*		13.00*	
				5,286,337A		5,280,343A	
				4.50*		4.50*	
			HTH	3,382,140N		3,382,140N	
4.	HTH131 - EPIDEMIOLOGY SERVICES						
	OPERATING		HTH	19.00*		19.00*	
				1,208,691A		1,161,560A	
				21.00*		21.00*	
			HTH	4,200,000N		4,200,000N	
5.	HTH141 - DENTAL DISEASES						
	OPERATING		HTH	25.60*		25.60*	
				1,256,293A		1,106,293A	
6.	HTH151 - PREVENTIVE HEALTH SERVICES						
	OPERATING		HTH	3.00*			*
				411,658A			A
			HTH	1,936,559N			N
7.	HTH160 - NUTRITION						
	OPERATING		HTH	3.00*			*
				139,214A			A
				2.00*			*
			HTH	240,247N			N
8.	HTH180 - HEALTH PROMOTION & ED, INJURY PREV & CONTROL						
	OPERATING		HTH	20.80*		22.80*	
				868,341A		1,175,332A	
				3.00*		5.00*	
			HTH	989,711N		3,166,517N	
9.	HTH165 - WOMAN, INFANTS & CHILDREN'S SERVICES						
	OPERATING		HTH	116.50*		116.50*	
				33,477,385N		33,677,385N	
10.	HTH195 - HPDP ADMINISTRATION						
11.	HTH501 - DEVELOPMENTAL DISABILITIES						
	OPERATING		HTH	313.75*		311.75*	
	INVESTMENT CAPITAL		AGS	25,505,580A		27,041,017A	
				1,318,000C		4,583,000C	
			HTH	700,000C			
12.	HTH530 - CHILDREN WITH SPECIAL HEALTH NEEDS						

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
	OPERATING		HTH	71.00*		71.00*	
			HTH	4,256,256A		4,006,542A	
			HTH	3.00*		3.00*	
			HTH	600,000B		600,000B	
			HTH	28.00*		28.00*	
			HTH	4,489,269N		5,493,226N	
13.	HTH540 - SCHOOL HEALTH SERVICES						
	OPERATING		HTH	67.00*		61.00*	
			HTH	3,075,763A		2,907,318A	
			HTH	2.00*		2.00*	
			HTH	706,116N		706,116N	
14.	HTH550 - MATERNAL & CHILD HEALTH SERVICES						
	OPERATING		HTH	20.00*		20.00*	
			HTH	11,658,199A		11,674,639A	
			HTH	25.00*		25.00*	
			HTH	3,243,976N		3,243,976N	
15.	HTH570 - COMMUNITY HEALTH NURSING						
	OPERATING		HTH	436.50*		440.50*	
			HTH	12,045,027A		11,798,062A	
			HTH	1.00*		1.00*	
			HTH	29,675N		29,675N	
16.	HTH730 - EMERGENCY MEDICAL SERVICES						
	OPERATING		HTH	12.00*		12.00*	
			HTH	31,535,906A		32,509,624A	
			HTH	295,786N		295,786N	
17.	HTH595 - HEALTH RESOURCES ADMINISTRATION						
	OPERATING		HTH	38.00*		38.00*	
			HTH	4,480,130A		4,990,859A	
			HTH	2.00*		2.00*	
			HTH	834,362N		591,804N	
			HTH	29,598U		29,598U	
	INVESTMENT CAPITAL		HTH	896,000C		3,500,000C	
18.	HTH795 - HEALTH RESOURCES ADMINISTRATION						
19.	HTH210 - COMMUNITY HOSPITALS						
	OPERATING		HTH	8,000,000A		8,000,000A	
			HTH	2,972.25*		2,836.25*	
			HTH	218,431,089B		225,552,744B	
	INVESTMENT CAPITAL		AGS			4,167,000C	
			HTH	1,364,000C		400,000C	
			HTH			38,000,000E	
20.	HTH295 - COMMUNITY HOSPITALS ADMINISTRATION						
21.	SUB601 - PRIVATE HOSPITALS & MEDICAL SERVICES						
22.	HTH420 - ADULT MENTAL HEALTH						
	OPERATING		HTH	243.10*		243.10*	
			HTH	17,658,905A		16,720,830A	
			HTH	864,146B		2,507,430B	
			HTH	1,026,514N		1,026,514N	
	INVESTMENT CAPITAL		AGS	250,000C			
23.	HTH430 - HAWAII STATE HOSPITAL						

## PROGRAM APPROPRIATIONS

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				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
				620.50*		620.50*	
		OPERATING	HTH	31,067,340A		30,112,550A	
		INVESTMENT CAPITAL	AGS	314,000C		1,061,000C	
24.	HTH440 -	ALCOHOL & DRUG ABUSE					
		OPERATING	HTH	7.00*		7.00*	
				6,271,580A		6,067,830A	
				2.00*		2.00*	
			HTH	5,675,507N		5,675,507N	
25.	HTH460 -	CHILD & ADOLESCENT MENTAL HEALTH					
		OPERATING	HTH	148.00*		148.00*	
				45,277,752A		60,498,014A	
			HTH	1,902,292B		1,902,292B	
			HTH	4,598,644N		4,598,644N	
		INVESTMENT CAPITAL	AGS	3,886,000C			
			HTH	500,000C			
26.	HTH495 -	BEHAVIORAL HEALTH SERVICES ADMINISTRATION					
		OPERATING	HTH	75.00*		75.00*	
				6,750,359A		6,212,958A	
				4.00*		4.00*	
			HTH	644,783N		1,698,299N	
			HTH	1,771,150U		1,771,150U	
27.	HTH610 -	ENVIRONMENTAL HEALTH SERVICES					
		OPERATING	HTH	150.00*		148.00*	
				5,143,669A		4,978,692A	
				4.00*		4.00*	
			HTH	300,000B		300,000B	
				7.00*		7.00*	
			HTH	515,230N		515,230N	
				2.00*		2.00*	
		INVESTMENT CAPITAL	HTH	61,942U		61,942U	
			AGS	7,449,000C			
28.	HTH710 -	STATE LABORATORY SERVICES					
		OPERATING	HTH	90.00*		90.00*	
				4,595,105A		4,420,185A	
29.	HTH720 -	MED FACILITIES - STDS, INSPECTION, LICENSING					
		OPERATING	HTH	16.90*		16.90*	
				920,349A		876,674A	
				20.70*		20.70*	
			HTH	1,535,310N		1,535,310N	
30.	HTH906 -	COMPREHENSIVE HEALTH PLANNING					
		OPERATING	HTH	8.00*		8.00*	
				414,726A		414,726A	
31.	HTH760 -	HEALTH STATUS MONITORING					
		OPERATING	HTH	29.00*		29.00*	
				1,644,651A		1,301,009A	
			HTH	397,214N		397,214N	
32.	HTH904 -	EXECUTIVE OFFICE ON AGING					
		OPERATING	HTH	3.55*		3.55*	
				4,975,354A		4,995,950A	
				7.35*		7.45*	
			HTH	5,696,416N		5,852,533N	

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		INVESTMENT CAPITAL	HTH	2,250,000C			
33.		HTH905 - POLICY DEV & ADVOCACY FOR DEV DISABILITIES			1.50*		1.50*
		OPERATING	HTH	79,736A			77,236A
			HTH	6.50*			6.50*
			HTH	433,728N			433,728N
34.		HTH907 - GENERAL ADMINISTRATION			122.00*		114.00*
		OPERATING	HTH	5,813,204A			5,293,855A
			HTH	207,843N			441,401N
		INVESTMENT CAPITAL	AGS	2,259,000C			
			HTH	250,000C			
			HTH	100,000R			
<b>F. SOCIAL SERVICES</b>							
1.		HMS301 - CHILD WELFARE SERVICES			192.47*		192.44*
		OPERATING	HMS	17,254,003A			17,139,764A
			HMS	100,000B			300,000B
				172.53*			172.56*
			HMS	10,975,642N			19,154,268N
			HMS				425,000W
2.		HMS302 - CHILD DAY CARE SERVICES			27.00*		27.00*
		OPERATING	HMS	5,548,216A			7,450,990A
				1.00*			1.00*
			HMS	9,736,544N			13,295,847N
3.		HMS303 - CHILD PLACEMENT BOARD AND RELATED CLIENT PAYMENTS					
		OPERATING	HMS	11,986,770A			11,986,770A
			HMS	7,738,775N			7,738,775N
4.		HMS601 - ADULT COMMUNITY CARE SERVICES BRANCH			80.50*		81.16*
		OPERATING	HMS	7,217,567A			6,713,908A
			HMS	4,931,441N			5,449,305N
			HMS	241,636U			279,687U
5.		HMS501 - YOUTH SERVICES ADMINISTRATION			22.00*		22.00*
		OPERATING	HMS	1,170,658A			1,164,742A
			HMS	1,535,503N			1,742,696N
		INVESTMENT CAPITAL	AGS	8,000,000C			638,000C
6.		HMS502 - YOUTH SERVICES PROGRAM					
		OPERATING	HMS	3,540,706A			3,519,476A
			HMS	725,342N			870,342N
		INVESTMENT CAPITAL	HMS	2,000,000C			600,000C
7.		HMS503 - YOUTH RESIDENTIAL PROGRAMS			75.50*		75.50*
		OPERATING	HMS	5,000,655A			4,569,250A
			HMS	1,502,204N			1,802,704N
8.		DEF112 - SERVICES TO VETERANS					

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
					25.00*		24.00*
		OPERATING	DEF	1,172,968A		1,181,683A	
		INVESTMENT CAPITAL	DEF	800,000C			
9.	HMS304 -	FOSTER CARE LICENSING					
10.	HMS201 -	TEMP ASSISTANCE TO NEEDY FAMILIES					
		OPERATING	HMS	40,807,246A		18,885,189A	
			HMS	85,910,687N		80,910,687N	
11.	HMS202 -	PAYMNTS TO ASSIST THE AGED, BLIND & DISABLED					
		OPERATING	HMS	29,474,516A		23,086,873A	
12.	HMS204 -	GENERAL ASSISTANCE PAYMENTS					
		OPERATING	HMS	27,047,944A		24,761,632A	
13.	HMS206 -	FEDERAL ASSISTANCE PAYMENTS					
		OPERATING	HMS	1,491,331N		1,491,331N	
14.	HMS203 -	TEMP ASSISTANCE TO OTHER NEEDY FAMILIES					
		OPERATING	HMS	42,573,741A		51,297,029A	
15.	HMS220 -	RENTAL HOUSING SERVICES					
		OPERATING	HMS	1,007,337A			A
				202.00*			*
			HMS	21,913,167N			N
				23.00*			*
		INVESTMENT CAPITAL	HMS	3,809,386W			W
			HMS	2,045,000C			C
16.	BED220 -	RENTAL HOUSING SERVICES					
		OPERATING	BED			1,007,337A	
						202.00*	
			BED			21,130,902N	
						23.00*	
		INVESTMENT CAPITAL	BED			3,830,101W	
			BED			8,727,000C	
17.	HMS807 -	TEACHER HOUSING					
		OPERATING	HMS	268,155W			W
		INVESTMENT CAPITAL	HMS	1,776,000C			
18.	BED807 -	TEACHER HOUSING					
		OPERATING	BED			269,528W	
19.	HMS229 -	HOUSING ASSISTANCE ADMINISTRATION					
		OPERATING	HMS	11,051,248N			*
				37.00*			*
			HMS	356,138W			W
		INVESTMENT CAPITAL	HMS	4,754,000N			N
20.	BED229 -	HCDCH ADMINISTRATION					
		OPERATING	BED			17.00*	
						2,591,960B	
			BED			37.00*	
						11,101,773N	
						7.00*	
			BED			363,771W	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		INVESTMENT CAPITAL	BED			14,108,000N	
21.	BUF225	- PRIVATE HOUSING DEVELOPMENT & OWNERSHIP					
	OPERATING		BUF	16.00*			*
			BUF	3,233,735B			B
			BUF	103,741N			N
	INVESTMENT CAPITAL		BUF	1,250,000C			
22.	BED225	- PRIVATE HOUSING DEVELOPMENT & OWNERSHIP					
	OPERATING		BED			16.00*	
			BED			2,753,598B	
						104,648N	
23.	BUF223	- BROADENED HOMESITE OWNERSHIP					
	OPERATING		BUF		242,939B		B
24.	BED223	- BROADENED HOMESITE OWNERSHIP					
	OPERATING		BED			222,450B	
25.	BUF227	- HOUSING FINANCE					
	OPERATING		BUF	7.00*			*
			BUF	1,113,573B			B
			BUF	8,253,229N			N
26.	BED227	- HOUSING FINANCE					
	OPERATING		BED			7.00*	
			BED			1,044,438B	
						3,000,000N	
27.	BUF229	- HOUSING FINANCE & DEVELOPMENT ADMINISTRATION					
	OPERATING		BUF	17.00*			*
			BUF	2,418,196B			B
28.	BED222	- RENTAL ASSISTANCE SERVICES					
	OPERATING		BED			5.25*	
			BED			2,112,989A	
			BED			10.75*	
						15,895,252N	
29.	HMS222	- RENTAL ASSISTANCE SERVICES					
	OPERATING		HMS	5.25*			*
			HMS	2,124,869A			A
			HMS	10.75*			*
			HMS	15,875,851N			N
30.	BED224	- HOMELESS SERVICES					
	OPERATING		BED			4.00*	
			BED			4,152,902A	
						904,000N	
31.	HMS224	- HOMELESS SERVICES					
	OPERATING		HMS	4.00*			*
			HMS	4,167,070A			A
			HMS	904,000N			N
32.	BED231	- RENTAL HOUSING TRUST FUND					
	OPERATING		BED			6,653,827T	
33.	BUF231	- RENTAL HOUSING TRUST FUND PROGRAM					

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
	OPERATING		BUF	5,852,825T			T
34.	HMS230 - HEALTH CARE PAYMENTS						
	OPERATING		HMS	142,735,120A		141,643,916A	
			HMS	148,145,121N		147,013,918N	
			HMS	6,000,000U		6,000,000U	
35.	HMS603 - HOME AND COMMUNITY BASED CARE SERVICES						
	OPERATING		HMS	8,926,016A		10,793,258A	
			HMS	20,032,921N		21,411,163N	
			HMS	11,830,331U		14,024,792U	
36.	HMS245 - QUEST HEALTH CARE PAYMENTS						
	OPERATING		HMS	166,963,798A		164,253,943A	
			HMS	169,005,837N		166,295,982N	
37.	HMS236 - ELIG DETER. & EMPLOYMT RELATED SVCS						
	OPERATING		HMS	333.78*		333.24*	
			HMS	10,732,879A		10,723,598A	
			HMS	261.22*		260.76*	
			HMS	12,468,335N		12,497,701N	
38.	HMS238 - DISABILITY DETERMINATION						
	OPERATING		HMS	45.00*		45.00*	
			HMS	3,866,611N		3,858,037N	
39.	ATG500 - CHILD SUPPORT ENFORCEMENT SERVICES						
	OPERATING		ATG	43.18*		50.66*	
			ATG	1,396,334A		1,732,263A	
			ATG	97.68*		112.20*	
			ATG	12,438,663N		12,923,418N	
			ATG	7.14*		7.14*	
			ATG	2,424,620T		2,424,620T	
40.	HMS237 - FOOD STAMP EMPLOYMENT & TRAINING						
	OPERATING		HMS	2.00*		2.00*	
			HMS	460,640A		490,640A	
			HMS	814,412N		2,146,857N	
41.	HMS702 - FOOD STAMP EMPLOYMENT & TRAINING						
42.	HHL602 - PLANNG, DEV, MGT & GEN SPPT FOR HAWN HMSTDS						
	OPERATING		HHL	38.00*		35.00*	
			HHL	1,493,016A		1,347,684A	
			HHL	80.00*		83.00*	
	INVESTMENT CAPITAL		HHL	5,254,340B		5,617,529B	
			HHL	100,000,000E			
43.	HMS602 - EXECUTIVE OFFICE ON AGING						
44.	HTH520 - PLAN, PROG DEV & COORD OF SVS FOR HANDCPPD						
	OPERATING		HTH	5.00*		5.00*	
			HTH	603,283A		589,548A	
45.	HMS902 - GENERAL SUPPORT FOR HEALTH CARE PAYMENTS						
	OPERATING		HMS	26.00*		25.50*	
			HMS	4,949,769A		4,943,112A	
			HMS	26.76*		29.50*	
			HMS	5,325,932N		12,123,342N	

PROGRAM APPROPRIATIONS

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				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
46.	HMS903	GEN SPPT FOR BEN, EMPLOYMT & SPPT SVCS					
	OPERATING		HMS	53.30*		54.30*	
			HMS	9,736,774A		8,520,212A	
			HMS	45.70*		46.70*	
			HMS	14,565,162N		11,174,997N	
47.	HMS904	GENERAL ADMINISTRATION (DSSH)					
	OPERATING		HMS	174.81*		171.15*	
			HMS	6,962,042A		6,799,617A	
			HMS	16.19*		15.85*	
			HMS	933,231N		1,055,669N	
48.	HMS901	GENERAL SUPPORT FOR SOCIAL SERVICES					
	OPERATING		HMS	13.97*		13.97*	
			HMS	1,155,746A		1,574,737A	
			HMS	10.03*		10.03*	
			HMS	1,225,956N		1,324,328N	
<b>G. FORMAL EDUCATION</b>							
1.	EDN100	SCHOOL-BASED BUDGETING					
	OPERATING		EDN	14,115.00*		14,131.50*	
			EDN	570,433,883A		569,153,887A	
			EDN	4,505,770B		4,505,770B	
			EDN	81,058,146N		81,775,027N	
			EDN	2,960,072T		2,960,072T	
			EDN	882,939U		882,939U	
	INVESTMENT CAPITAL		EDN	2,000,000W		2,000,000W	
			AGS	160,764,000B		153,972,000B	
			AGS	13,308,000C		20,822,000C	
			EDN	250,000B		250,000B	
			EDN			1,179,000C	
2.	EDN200	INSTRUCTIONAL SUPPORT					
	OPERATING		EDN	532.00*		528.00*	
			EDN	32,337,397A		32,470,589A	
			EDN	5,676,196N		5,726,196N	
			EDN	1,050,000U		1,050,000U	
			EDN	540,000W		540,000W	
3.	EDN300	STATE AND DISTRICT ADMINISTRATION					
	OPERATING		EDN	444.50*		440.00*	
			EDN	22,068,492A		21,970,914A	
			EDN	628,128N		628,128N	
4.	EDN400	SCHOOL SUPPORT					
	OPERATING		EDN	1,480.60*		1,503.60*	
			EDN	71,461,371A		71,767,080A	
			EDN	720.50*		720.50*	
			EDN	18,629,337B		18,744,596B	
			EDN	3.00*		3.00*	
			EDN	29,224,125N		29,889,722N	
5.	EDN500	SCHOOL COMMUNITY SERVICE					
	OPERATING		EDN	38.50*		38.50*	
			EDN	13,861,396A		13,861,396A	
			EDN	653,642B		653,642B	
			EDN	1,156,206N		1,156,206N	
			EDN	200,000W		200,000W	



## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
6.		AGS807 - PHYSICAL PLANT OPERATIONS & MAINTENANCE- AGS					
				238.00*		238.00*	
		OPERATING	AGS	34,872,247A		27,304,282A	
		INVESTMENT CAPITAL	AGS	24,031,000C		22,500,000C	
7.		AGS808 - STUDENT TRANSPORTATION					
				10.00*		10.00*	
		OPERATING	AGS	19,683,345A		20,248,345A	
8.		EDN407 - PUBLIC LIBRARIES					
				512.05*		512.05*	
		OPERATING	EDN	18,425,278A		18,199,971A	
			EDN	3,125,000B		3,125,000B	
			EDN	662,002N		662,002N	
		INVESTMENT CAPITAL	AGS	7,861,000C		17,893,000C	
9.		UOH100 - UNIVERSITY OF HAWAII, MANOA					
				3,488.09*		3,478.09*	
		OPERATING	UOH	166,533,340A		157,820,352A	
				77.25*		77.25*	
			UOH	59,109,441B		59,079,441B	
				78.06*		78.06*	
			UOH	5,411,667N		5,411,667N	
				182.25*		210.25*	
		INVESTMENT CAPITAL	UOH	58,287,383W		58,997,978W	
			AGS	1,450,000B			
			AGS	38,999,000C		32,408,000C	
			AGS	1,528,000R			
			UOH	500,000B			
			UOH	6,752,000C			
			UOH	500,000W			
10.		UOH210 - UNIVERSITY OF HAWAII, HILO					
				313.00*		325.00*	
		OPERATING	UOH	15,509,771A		15,111,580A	
				14.00*		14.00*	
			UOH	6,840,557B		6,840,557B	
			UOH	394,543N		394,543N	
				11.50*		11.50*	
		INVESTMENT CAPITAL	UOH	3,629,938W		3,984,938W	
			AGS	1,657,000C		22,583,000C	
			UOH			100,000C	
			UOH			12,002,000N	
11.		UOH300 - HONOLULU COMMUNITY COLLEGE					
12.		UOH310 - KAPIOLANI COMMUNITY COLLEGE					
13.		UOH320 - LEEWARD COMMUNITY COLLEGE					
14.		UOH330 - WINDWARD COMMUNITY COLLEGE					
15.		UOH400 - HAWAII COMMUNITY COLLEGE					
16.		UOH500 - MAUI COMMUNITY COLLEGE					
17.		UOH600 - KAUAI COMMUNITY COLLEGE					
18.		UOH700 - UNIVERSITY OF HAWAII AT WEST OAHU					
				46.50*		46.50*	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
	OPERATING		UOH	2,157,057A		2,041,128A	
			UOH	849,815B		849,815B	
			UOH			7,000N	
	INVESTMENT CAPITAL		UOH	50,000W		100,000W	
			UOH	333,000C			
19.	UOH800 - UH - COMMUNITY COLLEGES				1,479.25*		1,479.25*
	OPERATING		UOH	63,655,889A		60,082,518A	
				50.50*		50.50*	
			UOH	31,533,340B		31,533,340B	
				15.60*		15.60*	
			UOH	3,540,927N		3,540,927N	
				29.00*		29.00*	
	INVESTMENT CAPITAL		UOH	7,803,408W		10,573,091W	
			AGS	22,135,000C		32,632,000C	
			UOH	5,556,000C			
20.	UOH900 - UOH, SYSTEM WIDE SUPPORT				315.00*		316.00*
	OPERATING		UOH	24,649,657A		24,908,976A	
				4.00*		4.00*	
			UOH	206,333B		1,166,333B	
				4.00*		4.00*	
			UOH	457,667N		457,667N	
				100.00*		100.00*	
	INVESTMENT CAPITAL		UOH	42,365,606W		44,715,606W	
			AGS	19,983,000C		12,915,000C	
			UOH	22,308,000C		11,512,000C	
			UOH	500,000W			
21.	UOH906 - COMMUNITY COLLEGE SYSTEMWIDE SUPPORT						
<b>H. CULTURE AND RECREATION</b>							
1.	UOH881 - AQUARIA				13.00*		13.00*
	OPERATING		UOH	499,051A		478,655A	
				7.00*		7.00*	
			UOH	1,718,689B		1,718,689B	
2.	CCA701 - HAWAII PUBLIC BROADCASTING				35.00*		19.00*
	OPERATING		CCA	1,560,929A		670,699A	
				1.00*		17.00*	
			CCA	4,106,591W		5,092,723W	
3.	AGS881 - PERFORMING & VISUAL ARTS EVENTS				11.00*		10.00*
	OPERATING		AGS	1,962,193A		2,120,521A	
				5.00*		6.00*	
			AGS	4,062,197B		4,062,197B	
			AGS	682,405N		782,405N	
			AGS	15,000R		15,000R	
4.	LNR802 - HISTORIC PRESERVATION				13.00*		13.00*
	OPERATING		LNR	544,854A		544,854A	
			LNR	58,624B		58,624B	
						2.00*	

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
			LNR	424,312N		424,312N	
5.	LNR804 - FOREST RECREATION						
	OPERATING		LNR	38.00*		38.00*	
			LNR	1,301,718A		1,268,362A	
			LNR			2.00*	
			LNR			218,621B	
			LNR	3.00*		3.00*	
			LNR	495,506N		495,506N	
			LNR	500,000W		500,000W	
6.	LNR805 - RECREATIONAL FISHERIES						
	OPERATING		LNR	7.00*		7.00*	
			LNR	162,935A		162,935A	
			LNR	37,000B		37,000B	
			LNR	408,889N		408,889N	
7.	LNR806 - PARK DEVELOPMENT AND OPERATION						
	OPERATING		LNR	115.00*		115.00*	
			LNR	5,486,803A		5,218,007A	
			LNR	134,662B		181,164B	
	INVESTMENT CAPITAL		AGS	200,000C			
			LNR	6,920,000C		6,335,000C	
			LNR	100,000N			
8.	LNR801 - OCEAN-BASED RECREATION						
	OPERATING		LNR	88.00*		88.00*	
			LNR	9,882,135B		9,882,135B	
			LNR	700,000N		700,000N	
	INVESTMENT CAPITAL		LNR	260,000C		700,000C	
			LNR	798,000D		2,177,000D	
			LNR	270,000N		758,000N	
9.	AGS889 - SPECTATOR EVENTS & SHOWS - ALOHA STADIUM						
	OPERATING		AGS	39.50*		39.50*	
	INVESTMENT CAPITAL		AGS	4,952,083B		4,952,083B	
						4,950,000B	
10.	LNR807 - PARK INTERPRETATION						
	OPERATING		LNR	9.00*		9.00*	
			LNR	531,064B		531,064B	
	INVESTMENT CAPITAL		LNR	685,000B		550,000B	
11.	LNR809 - PARKS ADMINISTRATION						
	OPERATING		LNR	10.00*		10.00*	
			LNR	497,618A		455,554A	
			LNR	285,201N		285,201N	
	INVESTMENT CAPITAL		LNR	185,000C			
<b>I. PUBLIC SAFETY</b>							
1.	PSD402 - HALAWA CORRECTIONAL FACILITY						
	OPERATING		PSD	403.00*		404.00*	
			PSD	15,183,369A		15,452,301A	
				814,242W		814,242W	
2.	PSD403 - KULANI CORRECTIONAL FACILITY						
	OPERATING		PSD	79.00*		79.00*	
				3,216,880A		3,195,102A	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		INVESTMENT CAPITAL	AGS	3,634,000C			
3.		PSD404 - WAIAWA CORRECTIONAL FACILITY					
		OPERATING	PSD	99.25*		108.00*	
			PSD	3,760,715A		3,923,220A	
			PSD	179,392W		179,392W	
		INVESTMENT CAPITAL	AGS	1,913,000C			
			AGS	1,859,000N			
4.		PSD405 - HAWAII COMMUNITY CORRECTIONAL CENTER					
		OPERATING	PSD	166.00*		166.00*	
			PSD	5,957,501A		5,780,506A	
		INVESTMENT CAPITAL	AGS	589,000C			
5.		PSD406 - MAUI COMMUNITY CORRECTIONAL CENTER					
		OPERATING	PSD	179.00*		182.00*	
			PSD	5,640,233A		5,585,483A	
			PSD	87,000S		87,000S	
6.		PSD407 - OAHU COMMUNITY CORRECTIONAL CENTER					
		OPERATING	PSD	446.00*		446.00*	
			PSD	18,253,809A		19,164,367A	
			PSD	615,069W		615,069W	
		INVESTMENT CAPITAL	AGS	4,366,000C			
7.		PSD408 - KAUAI COMMUNITY CORRECTIONAL CENTER					
		OPERATING	PSD	68.00*		68.00*	
			PSD	2,665,549A		2,341,144A	
8.		PSD409 - WOMEN'S COMMUNITY CORRECTIONAL CENTER					
		OPERATING	PSD	113.00*		132.00*	
			PSD	4,537,558A		5,175,875A	
		INVESTMENT CAPITAL	AGS	2,104,000C			
9.		PSD410 - INTAKE SERVICE CENTERS					
		OPERATING	PSD	42.00*		42.00*	
			PSD	1,877,768A		1,842,591A	
10.		PSD420 - CORRECTION PROGRAM SERVICES					
		OPERATING	PSD	189.50*		192.50*	
			PSD	14,786,498A		15,673,947A	
11.		PSD421 - HEALTH CARE					
		OPERATING	PSD	138.93*		145.18*	
			PSD	8,559,462A		8,913,494A	
12.		PSD501 - PROTECTIVE SERVICES					
		OPERATING	PSD	95.50*		95.50*	
			PSD	4,161,071A		3,985,369A	
			PSD	29,890N		29,890N	
			PSD	13.00*		13.00*	
			PSD	1,318,908U		1,318,908U	
13.		PSD502 - NARCOTICS ENFORCEMENT					
		OPERATING	PSD	12.00*		12.00*	
			PSD	496,207A		496,207A	
			PSD	3.00*		3.00*	
			PSD	211,090W		230,633W	
14.		PSD503 - SHERIFF					

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
	OPERATING		PSD	146.00*		146.00*	
				4,527,635A		4,256,184A	
15.	PSD611 - ADULT PAROLE DETERMINATIONS						
	OPERATING		PSD	2.00*		2.00*	
				198,223A		198,223A	
16.	PSD612 - ADULT PAROLE SUPERVISION & COUNSELING						
	OPERATING		PSD	44.00*		44.00*	
				1,643,699A		1,559,083A	
17.	PSD613 - CRIMINAL INJURIES COMPENSATION						
	OPERATING		PSD	6.00*		6.00*	
			PSD	245,521A		122,760A	
			PSD			158,048B	
18.	PSD900 - GENERAL ADMINISTRATION						
	OPERATING		PSD	141.10*		141.10*	
				18,145,178A		28,659,177A	
			PSD			3.00*	
			PSD			126,401N	
			PSD	25,065T		25,065T	
				9.00*		9.00*	
			PSD	9,488,898W		9,488,898W	
			PSD	742,980X		742,980X	
	INVESTMENT CAPITAL		AGS	500,000C		2,200,000C	
19.	ATG231 - STATE CRIMINAL JUSTICE INFO & IDENTIFICATION						
	OPERATING		ATG	36.00*		29.00*	
			ATG	1,611,678A		2,055,530A	
			ATG	2,000,000N		2,000,000N	
				1.00*		8.00*	
			ATG	627,522W		1,334,616W	
20.	LNR810 - PREVENTION OF NATURAL DISASTERS						
	OPERATING		LNR	4.00*		4.00*	
			LNR	190,174A		192,345A	
			LNR	40,000N		40,000N	
	INVESTMENT CAPITAL		LNR	2,345,000C		10,545,000C	
			LNR	425,000N		585,000N	
21.	DEF110 - AMELIORATION OF PHYSICAL DISASTERS						
	OPERATING		DEF	117.55*		117.55*	
				6,926,170A		6,518,343A	
				32.45*		32.45*	
			DEF	6,042,969N		6,242,969N	
	INVESTMENT CAPITAL		AGS	1,210,000C		775,000C	
			AGS	125,000N		130,000N	
<b>J. INDIVIDUAL RIGHTS</b>							
1.	CCA102 - CABLE TELEVISION						
	OPERATING		CCA	4.00*		4.00*	
				722,220X		1,129,130X	
2.	CCA103 - CONSUMER ADVOCATE FOR COMM, UTIL & TRANS SVC						
	OPERATING		CCA	20.00*		20.00*	
				2,433,599U		2,475,352U	
3.	CCA104 - FINANCIAL INSTITUTION SERVICES						

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
	OPERATING		CCA	19.00*		19.00*	
				865,452A		865,452A	
			CCA	7.00*		7.00*	
				578,681W		578,681W	
4.	CCA105 - PROFESSIONAL, VOCATIONAL & PERSONAL SVCS						
	OPERATING		CCA	59.00*		59.00*	
				4,066,098B		4,072,805B	
			CCA	1.00*		2.00*	
				1,806,653T		1,292,729T	
5.	BUF901 - TRANSPORTATION, COMMUNICATIONS, & UTILITIES						
	OPERATING		BUF	44.00*		44.00*	
				5,784,146B		5,563,933B	
6.	CCA106 - INSURANCE REGULATORY SERVICES						
	OPERATING		CCA	26.00*		14.00*	
				1,008,387A		516,761A	
			CCA	3.00*		3.00*	
				1,630,006B		1,880,006B	
			CCA	135,518T		135,518T	
			CCA	19.00*		33.00*	
				3,574,692W		4,746,277W	
7.	CCA110 - OFFC OF CONSUMER PROT - UNFAIR/DECEP PRAC						
	OPERATING		CCA	14.00*			*
				580,328A			A
			CCA	10,681T		10,681T	
8.	AGR812 - MEASUREMENT STANDARDS						
	OPERATING		AGR	21.00*		20.00*	
				801,395A		751,535A	
9.	CCA111 - BUSINESS REGISTRATION						
	OPERATING		CCA	73.00*		69.00*	
				4,513,921B		4,364,051B	
10.	CCA112 - REGULATED INDUSTRIES COMPLAINTS OFFICE						
	OPERATING		CCA	15.00*		15.00*	
				5,746,299B		5,758,605B	
11.	CCA191 - GENERAL SUPPORT-PROTECTION OF THE CONSUMER						
	OPERATING		CCA	13.00*			*
				1,555,359A		341,152A	
			CCA	6.00*		50.00*	
				1,826,529B		5,134,549B	
			CCA			1.00*	
						73,471X	
12.	BUF151 - LEGAL ASSISTANCE IN CRIMINAL ACTIONS						
	OPERATING		BUF	82.00*		82.00*	
				6,603,771A		6,917,835A	
13.	LNR111 - CONVEYANCES AND RECORDINGS						
	OPERATING		LNR	48.00*		48.00*	
				1,755,656A		1,599,205A	
			LNR			500,000B	
				4.00*		4.00*	
			LNR	143,768U		143,768U	

## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
14.		LTG888 - COMMISSION ON THE STATUS OF WOMEN					
	OPERATING		LTG	1.00*		1.00*	
				100,788A		100,788A	
<b>K. GOVERNMENT-WIDE SUPPORT</b>							
1.		GOV100 - OFFICE OF THE GOVERNOR					
	OPERATING		GOV	38.00*		35.00*	
	INVESTMENT CAPITAL		AGS	3,519,514A		3,174,099A	
				1,000C		1,000C	
2.		LTG100 - OFFICE OF THE LIEUTENANT GOVERNOR					
	OPERATING		LTG	6.00*		6.00*	
				621,855A		608,220A	
3.		GOV102 - GOV - OTH POLICY DEVELOPMENT & COORDINATION					
	OPERATING		GOV	4.00*		4.00*	
				276,260A		276,260A	
4.		BED103 - STATEWIDE LAND USE MANAGEMENT					
	OPERATING		BED	7.00*		7.00*	
				432,077A		423,041A	
5.		BED104 - HAWAII COMMUNITY DEVELOPMENT AUTHORITY					
	OPERATING		BED	2.00*		2.00*	
			BED	123,228A		123,228A	
	INVESTMENT CAPITAL		BED	3,300,000B		3,300,000B	
			BED	53,459,000C		17,800,000C	
			BED			E	
6.		BUF101 - PROGRAM PLANNING, ANALYSIS AND BUDGETING					
	OPERATING		BUF	55.00*		53.00*	
	INVESTMENT CAPITAL		BUF	212,195,369A		210,752,659A	
				228,987,000C		168,522,000C	
7.		LTG101 - CAMPAIGN SPENDING COMMISSION					
	OPERATING		LTG	4.00*		*	
				198,812A		A	
			LTG			4.00*	
				200,000T		4,399,810T	
8.		LTG102 - OFFICE OF ELECTIONS					
	OPERATING		LTG	4.00*		4.00*	
				2,494,052A		2,194,611A	
9.		TAX102 - INCOME ASSESSMENT AND AUDIT					
	OPERATING		TAX	111.00*		111.00*	
				4,120,045A		3,858,949A	
10.		TAX103 - TAX COLLECTIONS ENFORCEMENT					
	OPERATING		TAX	93.00*		93.00*	
				2,937,133A		2,608,085A	
11.		TAX105 - TAX SERVICES & PROCESSING					
	OPERATING		TAX	99.00*		99.00*	
				5,078,232A		4,823,289A	
12.		TAX107 - SUPPORTING SERVICES - REVENUE COLLECTION					
				40.00*		40.00*	

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		OPERATING	TAX	4,486,524A		3,731,757A	
13.	AGS101	- ACCT SYSTEM DEVELOPMENT & MAINTENANCE					
		OPERATING	AGS	7.00*		7.00*	
				1,552,343A		1,553,823A	
14.	AGS102	- EXPENDITURE EXAMINATION					
		OPERATING	AGS	17.00*		17.00*	
				892,868A		880,010A	
15.	AGS103	- RECORDING AND REPORTING					
		OPERATING	AGS	12.00*		12.00*	
				495,771A		495,771A	
16.	AGS104	- INTERNAL POST AUDIT					
		OPERATING	AGS	13.00*		13.00*	
				1,061,739A		1,061,739A	
17.	BUF115	- FINANCIAL ADMINISTRATION					
		OPERATING	BUF	20.00*		20.00*	
			BUF	392,704,034A		388,436,468A	
				5,525U		5,525U	
18.	ATG100	- LEGAL SERVICES					
		OPERATING	ATG	206.76*		200.84*	
				17,494,637A		16,892,999A	
			ATG	4.00*		4.00*	
				280,229B		282,520B	
			ATG	12.00*		12.00*	
				7,065,603N		6,561,818N	
			ATG	3,318,000T		3,318,000T	
			ATG	40.24*		32.16*	
				5,147,592U		5,120,164U	
			ATG	2.00*		3.00*	
				3,000,000W		3,097,650W	
19.	AGS131	- INFORMATION PROCESSING SERVICES					
		OPERATING	AGS	165.00*		165.00*	
				10,394,880A		10,870,132A	
			AGS	33.00*		33.00*	
				1,623,771U		2,011,271U	
20.	BUF131	- ELECTRONIC DATA PROCESSING SERVICES					
21.	AGS161	- COMMUNICATION					
		OPERATING	AGS	8.00*		10.00*	
				2,948,683A		2,772,544A	
		INVESTMENT CAPITAL	AGS	1,250,000U		1,250,000U	
			AGS	1,510,000C		3,270,000C	
22.	BUF161	- COMMUNICATION					
23.	HRD102	- WORK FORCE ATTRACTION, SELECTION, CLASSIFICATION AND EFF.					
		OPERATING	HRD	124.00*		120.00*	
				14,817,440A		12,940,883A	
			HRD	4,708,381U		4,708,381U	
			HRD	415,694W		415,694W	
24.	HRD191	- SUPPORTING SERVICES-HUMAN RESOURCES DEVELOPMENT					
				13.00*		12.00*	



## PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		OPERATING	HRD	1,282,825A		2,606,672A	
25.	BUF141 - RETIREMENT	OPERATING	BUF	274,799,023A		216,491,644A	
				52.00*		52.00*	
			BUF	7,225,887X		6,100,387X	
26.	BUF142 - HEALTH & LIFE INSURANCE BENEFITS			15.00*		15.00*	
		OPERATING	BUF	616,416A		595,595A	
			BUF	371,598,000T		373,998,000T	
27.	LNR101 - PUBLIC LANDS MANAGEMENT			42.00*		42.00*	
		OPERATING	LNR	1,403,390A		1,332,090A	
				8.00*		8.00*	
			LNR	1,522,698B		4,386,788B	
			LNR	120,000N		72,634N	
		INVESTMENT CAPITAL	LNR	450,000B		1,150,000B	
			LNR	11,150,000C		3,335,000C	
28.	AGS203 - RISK MANAGEMENT			4.00*		4.00*	
		OPERATING	AGS	5,499,905A		5,499,905A	
			AGS	7,825,000W		7,825,000W	
29.	AGS211 - LAND SURVEY			18.00*		18.00*	
		OPERATING	AGS	726,535A		695,305A	
30.	AGS223 - OFFICE LEASING			4.00*		4.00*	
		OPERATING	AGS	17,348,141A		14,482,623A	
			AGS	5,500,000U		5,500,000U	
31.	AGS221 - CONSTRUCTION			19.00*		19.00*	
		OPERATING	AGS	1,080,716A		1,060,716A	
			AGS	4,000,000W		4,000,000W	
		INVESTMENT CAPITAL	AGS	19,272,000C		31,130,000C	
32.	AGS231 - CUSTODIAL SERVICES			141.50*		152.50*	
		OPERATING	AGS	9,595,270A		10,872,618A	
			AGS	430,501U		430,501U	
33.	AGS232 - GROUNDS MAINTENANCE			27.50*		27.50*	
		OPERATING	AGS	827,885A		818,561A	
34.	AGS233 - BUILDING REPAIRS AND ALTERATIONS			27.00*		27.00*	
		OPERATING	AGS	2,493,346A		2,438,692A	
		INVESTMENT CAPITAL	AGS	2,272,000C			
35.	AGS240 - STATE PROCUREMENT			19.00*		19.00*	
		OPERATING	AGS	836,410A		828,091A	
36.	AGS244 - SURPLUS PROPERTY MANAGEMENT						

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
	OPERATING		AGS	5.00*		5.00*	
				267,212W		267,212W	
37.	AGS251 - MOTOR POOL						
	OPERATING		AGS	13.50*		13.50*	
				1,404,048W		1,283,202W	
38.	AGS252 - PARKING CONTROL						
	OPERATING		AGS	22.50*		22.50*	
				2,811,889W		2,768,001W	
39.	AGS111 - RECORDS MANAGEMENT						
	OPERATING		AGS	20.00*		20.00*	
				665,253A		644,753A	
40.	AGS901 - GENRL ADM SVCS - ACCOUNTING & GENERAL SVCS						
	OPERATING		AGS	45.00*		45.00*	
				1,977,338A		1,977,338A	
			AGS	1.00*		1.00*	
			AGS	45,859U		45,859U	
			AGS	11,257,500W		11,257,500W	
41.	SUB201 - CITY AND COUNTY OF HONOLULU						
	OPERATING		SUB	250,000A		30,000A	
	INVESTMENT CAPITAL		CCH	78,000C		1,850,000C	
42.	SUB301 - COUNTY OF HAWAII						
	INVESTMENT CAPITAL		AGR			480,000C	
			COH	4,600,000C		1,828,000C	
43.	SUB401 - COUNTY OF MAUI						
	OPERATING		SUB	250,000A		250,000A	
	INVESTMENT CAPITAL		COM	4,350,000C		2,500,000C	
44.	SUB501 - COUNTY OF KAUAI						
	OPERATING		SUB	1,000,000A		40,000A	
	INVESTMENT CAPITAL		COK	4,000,000C		600,000C	

SECTION 4. Part III, Act 328, Session Laws of Hawaii 1997, is amended:

(1) By amending section 4 to read as follows:

“SECTION 4. Provided that of the general fund appropriation for commerce and industry (BED 102), the sum of \$500,000 for fiscal year 1997-1998 and the sum of [\$1,000,000] \$600,000 for fiscal year 1998-1999 shall be expended by the Hawaii strategic development corporation for financial participation in private financial investments; provided further that these investments shall be consistent with section 211F-7(c), Hawaii Revised Statutes; provided further that no investments shall be made unless matched on at least a 1:1 state to private ratio; and provided further that a report detailing the expenditure and return on investment of such funds shall be submitted to the legislature no later than twenty days prior to the convening of the 1998 and 1999 regular sessions.”

(2) By adding a new section to read as follows:

“SECTION 6.1. Provided that of the general fund appropriation for commerce and industry (BED 102), the sum of \$50,000 for fiscal year 1998-1999 shall be expended to assist independent film makers in Hawaii to produce films in the State, and to attract independent film makers outside of Hawaii; provided that the

department shall assist Hawaii-based film companies in the production of documentary films relating to the Pacific region; and provided further that the department shall submit a report to the legislature detailing the assistance provided to Hawaii-based film companies no later than twenty days prior to the convening of the 1999 regular session.”

(3) By adding a new section to read as follows:

“SECTION 6.2. Provided that of the general fund appropriation for commerce and industry (BED 102), the sum of \$25,000 for fiscal year 1998-1999 shall be expended for the Military Affairs Council to act as a liaison between state and county government, the private sector and the military community to create a positive environment for business; provided further that a report shall be submitted to the legislature detailing the activities and expenditures of the military affairs council no later than twenty days prior to the convening of the 1999 regular session.”

(4) By amending section 7 to read as follows:

“SECTION 7. Provided that of the general fund appropriation for state tourism office (BED 113), the sum of \$26,050,000 for fiscal year 1997-1998 and the sum of [\$24,050,000] \$13,025,000 for fiscal year 1998-1999 shall be expended by the Hawaii visitors and convention bureau for tourism marketing of Hawaii which includes advertising, promotion, public relations, market research, and other marketing related activities; provided further that of the general fund appropriation to the Hawaii visitors and convention bureau from state tourism office (BED 113):

- (1) The amount expended for salaries, benefits, related taxes, and office rent for the Hawaii visitors and convention bureau shall not exceed \$3,640,000 for fiscal year 1997-1998 and shall not exceed [\$3,785,600] \$1,892,800 for fiscal year 1998-1999;
- (2) The sum of \$1,838,174 for fiscal year 1997-1998 and the sum of [\$1,930,083] \$1,515,042 for fiscal year 1998-1999 shall be used for pro bowl advertising, marketing, and promotion by the Hawaii visitors and convention bureau;
- (3) The sum of \$1,220,000 for fiscal year 1997-1998 and the sum of [\$1,200,000] \$600,000 for fiscal year 1998-1999 shall be used for sports promotion activities as follows:

	<u>FY 1997-1998</u>	<u>FY 1998-1999</u>
Senior Skins	\$ 200,000	[\$ 200,000] <u>\$ 100,000</u>
[Lincoln Mercury Kapalua International]		
<u>Mercedes Championships</u>	\$ 200,000	[\$ 200,000] <u>\$ 100,000</u>
Kaanapali Classic	\$ 200,000	[\$ 200,000] <u>\$ 100,000</u>
PGA Grand Slam of Golf	\$ 200,000	[\$ 200,000] <u>\$ 100,000</u>
<u>Sony Hawaiian Open</u>	<u>\$ - 0 -</u>	<u>\$ 100,000</u>
Hawaii Winter League Baseball	\$ 400,000	[\$ 400,000] <u>\$ 100,000</u>
Royal Hawaiian Rowing Challenge	\$ 20,000	\$ - 0 -

provided further that the following conditions shall apply to the above events:

- (a) No funds shall be made available for the above events unless matched on a 1:2 state to private ratio;
- (b) Any unexpended and unencumbered funds shall be lapsed to the state general fund; and
- (c) Each of the above sports activities shall promote, market, or advertise Hawaii as a visitor destination;
- (4) The sum of \$75,000 for fiscal year 1997-1998 and the sum of [\$75,000] \$37,500 for fiscal year 1998-1999 shall be expended for the Hawaii international film festival; and provided further that no funds shall be made available unless matched on a 1:2 state to private ratio;
- (5) A minimum of \$3,500,000 shall be expended in fiscal year 1997-1998 and a minimum of [\$3,500,000] \$1,750,000 shall be expended in fiscal year 1998-1999 for island chapter marketing;
- (6) The sum of \$100,000 for fiscal year 1997-1998 and the sum of [\$100,000] \$50,000 for fiscal year 1998-1999 shall be expended for Poipu beach resort destination;
- (7) The sum of \$50,000 for fiscal year 1997-1998 and the sum of [\$50,000] \$25,000 for fiscal year 1998-1999 shall be expended for the King Kamehameha celebration commission;
- (8) The sum of \$56,900 for fiscal year 1998-1999 shall be expended for the Visitor Aloha Society of Hawaii; and

provided further that these ratios represent the minimum level of private funds required to match state funds; and provided further that a report detailing the expenditure of funds shall be submitted to the legislature no later than twenty days prior to the convening of the 1998 and 1999 regular sessions.”

(5) By adding a new section to read as follows:

“SECTION 7.1. Provided of the special fund appropriation for the state tourism office (BED 113), the sum of at least \$12,025,000 for FY 1998-1999 shall be expended by the Hawaii visitors and convention bureau for tourism marketing of Hawaii which includes advertising, promotion, public relations, market research, and other marketing related activities; provided further that of the special fund appropriation to the Hawaii visitors and convention bureau from the state tourism office (BED 113):

- (1) The amount expended for salaries, benefits, related taxes, and office rent for the Hawaii visitors and convention bureau shall not exceed \$1,892,800 for fiscal year 1998-1999;
- (2) The sum of \$1,515,042 for fiscal year 1998-1999 shall be used for pro bowl advertising, marketing, and promotion by the Hawaii visitors and convention bureau;
- (3) The sum of \$645,000 for fiscal year 1998-1999 shall be used for sports promotion activities as follows:

	<u>FY 1998-1999</u>
Senior Skins	\$ 100,000
Mercedes Championships	\$ 100,000
Kaanapali Classic	\$ 100,000
PGA Grand Slam of Golf	\$ 100,000
Sony Hawaiian Open	\$ 100,000
Winter League Baseball	\$ 100,000
Tour of Champions Bike Race	\$ 20,000
Royal Hawaiian Rowing Challenge	\$ 25,000

provided further that the following conditions shall apply to the above events:

- (a) No funds shall be made available for the above events unless matched on a 1:2 state to private ratio;

- (b) Any unexpended or unencumbered funds shall be lapsed to the tourism special fund;
- (c) Each of the above sports activities shall promote, market, or advertise Hawaii as a visitor destination;
- (4) The sum of \$37,500 for fiscal year 1998-1999 shall be expended for the Hawaii international film festival;
- (5) A minimum of \$1,750,000 shall be expended in fiscal year 1998-1999 for island chapter marketing;
- (6) The sum of \$50,000 for fiscal year 1998-1999 for Poipu beach resort;
- (7) The sum of \$25,000 for fiscal year 1998-1999 shall be expended for the King Kamehameha celebration commission;
- (8) The sum of \$108,000 for fiscal year 1998-1999 shall be expended for olympic related events in Hawaii;
- (9) The sum of \$10,000 for fiscal year 1998-1999 shall be expended for the Haleiwa Arts Festival;
- (10) The sum of \$56,900 for fiscal year 1998-1999 shall be expended for the Visitors Aloha Society of Hawaii; and

provided further that these ratios represent the minimum level of private funds required to match state funds; and provided further that a report detailing the expenditure of funds shall be submitted to the legislature no later than twenty days prior to the convening of the 1999 regular session."

- (6) By amending section 8 to read as follows:

"SECTION 8. Provided that of the general fund appropriation for the state tourism office (BED 113), the sum of \$50,000 for fiscal year 1997-1998 and the sum of \$50,000 for fiscal year 1998-1999 shall be spent for the visitor industry education council to:

- (1) Develop and direct a statewide program to expand school and community awareness and use of the visitor industry education council tourism education videos and career materials;
- (2) Produce a new tourism career ladder brochure covering the multitude of career opportunities, including new opportunities provided by the convention center, for use by schools, employers, and the general public;
- (3) Plan and direct workshops, promotions, and events for the general public, workers in the visitor industry, Hawaii's educators, and Hawaii's youth, to expand the general awareness of the importance of the visitor industry;
- (4) Administer and expand the statewide teacher and counselor visitor industry internship program for Hawaii's educators; and

provided further that no funds shall be made available unless matched on a 1:3 state to private ratio."

- (7) By amending section 9 to read as follows:

"SECTION 9. Provided that of the general fund appropriation for the state tourism office (BED 113), the sum of \$216,000 for fiscal year 1997-1998 and the sum of [~~\$216,000~~] \$108,000 for fiscal year 1998-1999 shall be used for olympic related events in Hawaii; and provided further that no funds shall be made available unless matched on a 2:1 private to state ratio; and provided further that a report shall be submitted to the legislature of all expenditures no later than twenty days prior to the convening of the 1998 and 1999 regular sessions."

- (8) By amending section 12 to read as follows:

"SECTION 12. Provided that of the general fund appropriation for agribusiness development and research (AGR 161), the sum of \$743,000 for fiscal year 1997-1998 and the sum of [~~\$743,000~~] \$662,413 for fiscal year 1998-1999 shall be expended as follows:

ACT 116

	FY 1997-1998	FY 1998-1999
Ornamental nursery research	\$ 25,000	\$ 25,000
Taro research	\$ 10,000	[- 0 -] \$ 20,000
Yellow sugarcane aphid research	\$ 40,000	- 0 -
Coffee research	\$ 25,000	\$ 25,000
Macadamia research	\$ 30,000	\$ 30,000
State farm fair	\$ 50,000	\$ 50,000
Plant alien pest program	\$ 50,000	\$ 50,000
Vegetable crop research	\$ 50,000	[\$ 50,000] \$ 35,000
Fruit fly post harvest treatment and research	\$ 95,000	[\$ 95,000] - 0 -
Papaya Transgenic Seed	\$ - 0 -	\$ 80,000
<u>Alien Species Education program</u>	\$ - 0 -	\$ 15,000
Pineapple research	\$ 198,000	[\$ 208,000] \$ 202,413
Ginger/taro research	- 0 -	[\$ 40,000] \$ - 0 -
Cut flower research	\$ 75,000	\$ 75,000
Livestock research	\$ 40,000	[\$ 40,000] \$ - 0 -
Tropical fruit research	\$ 30,000	\$ 30,000
Contingency emergency research for diversified agriculture	\$ 25,000	\$ 25,000

provided further that:

- (1) The department of agriculture shall submit an itemized report which shall include, but not be limited to, the progress being made with each specific commodity that is funded for research, and projected funding, if necessary, for the continuation of each of the research projects with justification for recommended funding in future years; and provided further that this report shall be submitted to the legislature no later than twenty days prior to the convening of the 1998 and 1999 regular sessions;
- (2) The department of agriculture shall support efforts to seek and obtain grants and other funds for agricultural research and development;
- (3) The chairperson of the board of agriculture shall expedite all projects under this section, especially emergency actions; and
- (4) The sums appropriated shall be expended by the department of agriculture for the purposes of this Act; provided that:
  - (a) The department of agriculture may require that any funds made available under this Act be matched by private funds;
  - (b) The department of agriculture is authorized to transfer funds between projects under this section or to other projects or commodities as deemed necessary by the department of agriculture; and
  - (c) The department of agriculture shall use funds appropriated for papaya transgenic seeds to provide transgenic seeds to farmers agreeing not to plant second filial generation seeds from harvested original plantings of the transgenic seeds.

(9) By repealing section 14.

(10) By amending section 30 to read as follows:

“SECTION 30. Provided that of the special fund appropriations for the airports division (TRN 102 - TRN 161), the following sums specified for special repair and maintenance projects for fiscal biennium 1997-1999, shall be used for special repair and maintenance purposes only:

<u>Program I.D.</u>	<u>FY 1997-1998</u>	<u>FY 1998-1999</u>
TRN 102	\$ 1,980,000	\$ 6,765,000
TRN 111	\$ 990,000	\$ 390,000
TRN 114	\$ 404,000	\$ 214,000
TRN 116	\$ 12,000	\$ - 0 -
TRN 131	[\$ 797,000]	\$ 150,000
	\$ 820,000	
TRN 133	\$ - 0 -	\$ 20,000
TRN 135	\$ 55,000	- 0 -
TRN 141	\$ 405,000	\$ 227,000
TRN 161	\$ 380,000	\$ 895,000;

provided further that any unexpended funds shall be lapsed to the airport revenue fund; provided further that the department of transportation shall prepare a report on planned uses and actual expenditures of all special repair and maintenance appropriations as of June 30 for each fiscal year; and provided further that the report shall be submitted to the legislature no later than twenty days prior to the convening of the 1998 and 1999 regular sessions.”

(11) By adding a new section to read as follows:

“SECTION 30.1. Provided that of the special fund appropriation for airports administration (TRN 195), the sum of \$116,276 for fiscal year 1998-1999 may be transferred to the Plant, Disease and Pest Control Program (AGR 122) to fund (3) plant quarantine inspector positions for alien pest species detection at Kahului Airport.”

(12) By adding a new section to read as follows:

“SECTION 30.2. Provided that of the special fund appropriation for airports administration (TRN 195), the sum of \$350,000 for fiscal year 1998-1999 shall be used to develop a master plan to establish a pacific cargo network system to provide direct product transportation by air for agricultural, industrial, and/or manufactured goods and services throughout the pacific rim and beyond; provided further that a study shall be conducted on the feasibility of the project prior to starting the master plan; provided further that the master plan shall identify the necessary facilities, including cargo buildings and foreign trade zones, within the airport system, statewide; provided further that these funds can be used for marketing and promotional activities necessary to implement the cargo sytem; provided further that these activities shall meet the approval of the Federal Aviation Aministration prior to expenditure of any funds; provided further that the department of transportation shall submit a detailed expenditure plan and status report to the legislature no later than twenty days prior to the convening of the 1999 regular session; and provided further that the department of transportation shall submit the final plan to the legislature no later than twenty days prior to the convening of the 2000 regular session.”

(13) By amending section 31 to read as follows:

“SECTION 31. Provided that of the special fund appropriation for harbors administration (TRN 395), the sum of [\$20,102,658] \$17,450,594 for fiscal year 1997-1998 and the sum of [\$20,567,869] \$17,374,646 for fiscal year 1998-1999 shall be used for the following purposes:

**ACT 116**

<u>Purpose</u>	<u>FY 1997-1998</u>	<u>FY 1998-1999</u>
Interest and principal on general obligation bonds	[\$ 675,658] \$ 635,454	[\$ 576,869] \$ 568,796
Interest and principal on revenue bonds	[\$19,427,000] \$16,815,140	[\$19,991,000;] \$16,805,850;

and provided further that any funds not expended for this purpose shall be lapsed to the harbor special fund.”

(14) By repealing section 32.

(15) By amending section 39 to read as follows:

“SECTION 39. Provided that of the special fund appropriation for highways administration (TRN 595), the sum of [\$44,513,244] \$44,618,000 for fiscal year 1997-1998 and the sum of [\$46,553,728] \$46,730,000 for fiscal year 1998-1999 shall be used for the following purposes:

<u>Purpose</u>	<u>FY 1997-1998</u>	<u>FY 1998-1999</u>
Interest and principal on general obligation bonds	[\$33,160,094] \$32,576,000	[\$31,103,585] \$30,681,000
Interest and principal on revenue bonds	[\$11,353,150] \$12,042,000	[\$15,450,143;] \$16,049,000;

and provided further that any funds not expended for this purpose shall be lapsed to the state highway fund.”

(16) By adding a new section to read as follows:

“SECTION 39.1. Provided that of the special fund appropriations for highways administration (TRN 595), the sum of \$750,000 for fiscal year 1998-1999 shall be used to secure matching federal funds for the establishment, operation and maintenance of a ferry services system; provided further that this sum shall not be used for any other purposes; and provided further that any funds not expended for this purpose shall be lapsed to the state highway fund.”

(17) By amending section 40 to read as follows:

“SECTION 40. Provided that of the special fund appropriations for the highways division (TRN 501 - TRN 595), the following sums specified for special repair and maintenance projects for fiscal biennium 1997-1999, shall be used for special repair and maintenance purposes only:

<u>Program I.D.</u>	<u>FY 1997-1998</u>	<u>FY 1998-1999</u>
TRN 501	\$13,024,593	[\$12,711,125] \$11,440,013
TRN 511	\$ 9,106,227	[\$ 8,318,149] \$ 7,486,335
TRN 531	\$ 5,151,050	[\$ 6,105,984] \$ 5,495,386
TRN 541	\$ 1,907,281	\$ 2,655,067
TRN 551	\$ 292,889	\$ 286,491
TRN 561	\$ 5,333,858	[\$ 4,923,184] \$ 4,430,866
TRN 595	\$ 184,102	[ - 0 - ; ] \$ 601,165;



provided further that any unexpended funds shall be lapsed to the state highway fund; provided further that the department of transportation shall prepare a report on planned uses and actual expenditures of all special repair and maintenance appropriations as of June 30 for each fiscal year; and provided further that the report shall be submitted to the legislature no later than twenty days prior to the convening of the 1998 and 1999 regular sessions.”

(18) By amending section 43 to read as follows:

“SECTION 43. Provided that of the environmental management special fund for environmental management (HTH 840), the sum of \$100,000 for fiscal year [1997-1998] 1998-1999 shall be expended to review, revise, and update the state integrated solid waste management plan.”

(19) By amending section 45 to read as follows:

“SECTION 45. Provided that [preventive health services (HTH 151),] health promotion and education, injury prevention and control (HTH 180), shall provide financial assistance, within the limits of available funds in the financial assistance fund, for the medical care and treatment of persons suffering from hemophilia who meet the standards of eligibility established by the department of health; and provided further that the department of health may contract with a private, nonprofit organization to carry out this function.”

(20) By amending section 46 to read as follows:

“SECTION 46. Provided that of the general fund appropriation for [preventive health services (HTH 151),] health promotion and education, injury prevention and control (HTH 180), the sum of \$120,000 for fiscal year 1997-1998 and the sum of \$120,000 for fiscal year 1998-1999 shall be expended to provide for a grant-in-aid for home hemodialysis treatment services on the islands of Molokai and Lanai.”

(21) By adding a new section to read as follows:

“SECTION 49.1. Provided that of the general fund appropriation for school health services (HTH 540), the sum of \$150,000 for fiscal year 1998-1999 shall be expended on grants-in-aid for school health service centers at Kapa’a high and intermediate school, Kahuku high and intermediate school, and Mililani high school.”

(22) By amending section 51 to read as follows:

“SECTION 51. Provided that of the general fund appropriation for health resources administration (HTH 595), the sum of \$416,087 for fiscal year 1997-1998 and the sum of [~~\$416,934~~] \$365,889 for fiscal year 1998-1999 shall be expended for a grant-in-aid to the Waikiki health center for care-a-van Kauai, Maui, Hawaii, and Oahu.”

(23) By adding a new section to read as follows:

“SECTION 51.1. Provided that of the general fund appropriation for health resources administration (HTH 595), the sum of \$800,000 for fiscal year 1998-1999 shall be expended for urgent care services at Hana community health center.”

(24) By adding a new section to read as follows:

“SECTION 51.2. Provided that of the general fund appropriation for emergency medical services (HTH 730), the sum of \$37,500 for fiscal year 1998-1999 shall be expended for the traumatic brain injury demonstration project.”

(25) By amending section 52 to read as follows:

“SECTION 52. Provided that the legislative auditor shall perform a fiscal and management audit of Hawaii health systems corporation (HTH 210); provided further that this report shall include, but not be limited to, an analysis of accounting procedures, procurement practices, and personnel and fiscal accountability; and provided further that the office of the auditor shall provide this report to the legislature no later than twenty days prior to the convening of the [1998] 1999 regular session.”

(26) By repealing section 56.

(27) By adding a new section to read as follows:

“SECTION 56.1. Provided that the legislative auditor shall examine to what extent the direct services which are currently provided in the adult mental health program (HTH 420) could be assumed by private providers; provided further that the office of the auditor shall provide the results of this study to the legislature no later than twenty days prior to the convening of the 1999 regular session.”

(28) By adding a new section to read as follows:

“SECTION 56.2. Provided that of the general fund appropriation for alcohol and drug abuse (HTH 440), the sum of \$250,000 for fiscal year 1998-1999 shall be expended on a purchase of services for treatment in a family-like setting for teenagers dependent on drugs.”

(29) By amending section 57 to read as follows:

“SECTION 57. Provided that the legislative auditor shall conduct a study on the privatization of the child and adolescent mental health program (HTH 460); provided further that this study shall include, but not be limited to, an analysis of current operating procedures, current program effectiveness, cost benefits of privatization, and the effectiveness of privatization; and provided further that the office of the auditor shall provide this study to the legislature no later than twenty days prior to the convening of the [1998] 1999 regular session.”

(30) By amending section 58 to read as follows:

“SECTION 58. Provided that of the general fund appropriation for executive office on aging (HTH 904), the sum of \$24,000 for fiscal year 1997-1998 and the sum of [ \$24,000 ] \$35,000 for fiscal year 1998-1999 shall be expended on a purchase of services for [Helping Hands Hawaii] intergenerational volunteer opportunities.”

(31) By adding a new section to read as follows:

“SECTION 60.1. Provided that of the general fund appropriation for executive office on aging (HTH 904), the sum of \$50,000 for fiscal year 1998-1999 shall be expended on a purchase of services for a senior case management program.”

(32) By adding a new section to read as follows:

“SECTION 60.2. Provided that of the general fund appropriation for executive office on aging (HTH 904), the sum of \$16,000 for fiscal year 1998-1999 shall be expended on a grant-in-aid for Kapahulu Center Inc.”

(33) By amending section 62 to read as follows:

“SECTION 62. Provided that of the general fund appropriation for youth services programs (HMS 502), the sum of \$83,600 for fiscal year 1997-1998 and the sum of \$83,600 for fiscal year 1998-1999 shall be expended on a grant-in-aid for Kookua Kalihi Valley to provide delinquency prevention services.”

(34) By amending section 63 to read as follows:

“SECTION 63. Provided that of the general fund appropriation for services to veterans (DEF 112), the sum of \$35,000 for fiscal year 1997-1998 and the sum of [ \$65,000 ] \$40,000 for fiscal year 1998-1999 shall be expended in the form of grants and assistance for the World War II (WWII) Filipino Veterans Burial Grant Program (VGBP).”

(35) By amending section 65 to read as follows:

“SECTION 65. Provided that of the general fund appropriation for payments to assist the aged, blind, and disabled (HMS 202), the sum of \$29,474,516 for fiscal year 1997-1998 and the sum of [ \$22,861,096 ] \$23,086,873 for fiscal year 1998-1999 shall be used for payments to qualified recipients of this program; provided further that no other general funds shall be used for payments to recipients; and provided further that any unexpended funds shall be lapsed to the general fund.”

(36) By amending section 66 to read as follows:

“SECTION 66. Provided that of the general fund appropriation for general assistance payments (HMS 204), the sum of \$27,047,944 for fiscal year 1997-1998 and the sum of [ \$26,261,632 ] \$24,761,632 for fiscal year 1998-1999 shall be used

for payments to qualified recipients of this program; provided further that no other general funds shall be used for payments to recipients; and provided further that any unexpended funds shall be lapsed to the general fund.”

(37) By adding a new section to read as follows:

“SECTION 66.1. Provided that of the appropriation for health care payments (HMS 230), the sum of \$500,000 in general funds and \$500,000 in federal funds for fiscal year 1997-1998 shall be used to provide cost based reimbursements for federally qualified health centers.”

(38) By adding a new section to read as follows:

“SECTION 66.2. Provided that of the general fund appropriation for health care payments (HMS 230), the sum of \$40,000 shall be used by the department of human services to develop a medicaid long-term demonstration project that shall include the preparation of a waiver application to start up the demonstration project; provided further that the waiver application shall be submitted to the Federal Health Care Financing Administration; provided further that the waiver application shall include a demonstration managed care program centering on home-based and community-based services that shall be contracted out to a health plan; provided further that the program shall integrate preventive, primary, acute care, and long-term care services under a capitated structure with a strong emphasis on home and community-based services; and provided further that the department shall submit a progress report to the legislature detailing the expenditures made and the potential costs savings to be realized from reimbursable services resulting from the waiver application no later than twenty days prior to the convening of the 1999 regular session.”

(39) By amending section 67 to read as follows:

“SECTION 67. Provided that of the general fund appropriation for home and community based care services (HMS 603), the sum of [\$594,216] \$1,188,450 for fiscal year 1997-1998 and sum of [\$622,739] \$1,188,450 for fiscal year 1998-1999 shall be expended for program of all-inclusive care for the elderly (PACE); provided further that the program for the all inclusive care of the elderly (PACE) shall not be further expanded until the program can demonstrate the ability to achieve its objectives and warrant state support; and provided further that the [department of human services] PACE Hawaii program shall submit a report detailing [all expenditures of the program] program costs, including all unfunded liabilities, and revenues necessary to evaluate self-sufficiency to the legislature no later than twenty days prior to the convening of the [1998 and] 1999 regular session[s].”

(40) By adding a new section to read as follows:

“SECTION 68.1. Provided that of the appropriation for general support for benefit, employment and support services (HMS 903), the sum of \$20,000 in general funds and the sum of \$20,000 in federal funds for fiscal year 1998-1999 shall be expended for the purpose of providing eligibility services in Pahoah, Hawaii.”

(41) By adding a new section to read as follows:

“SECTION 68.2. Provided that of the general fund appropriation for general administration (HMS 904), the sum of \$50,000 shall be expended for the purposes of establishing an ombudsman program to represent consumers in the QUEST II program; provided further that the department of human services shall utilize appropriate federal funds to match the state funds for this purpose; and provided further that the department shall establish the QUEST II ombudsman prior to the implementation of the QUEST II program.”

(42) By adding a new section to read as follows:

“SECTION 74.1. Provided that of the general fund appropriation for school-based budgeting (EDN 100), the sum of \$100,000 shall be expended by the department of education for the youth challenge program.”

(43) By repealing section 79.

(44) By adding a new section to read as follows:

“SECTION 83.1. Provided that of the general fund appropriation for school based budgeting (EDN 100), the sum of \$50,000 for fiscal year 1998-1999 shall be expended on a grant-in-aid for the Read To Me International Foundation to promote literacy.”

(45) By amending section 85 to read as follows:

“SECTION 85. Provided that, notwithstanding any appropriation or position ceiling, the governor may transfer positions and funds from the department of human resources development to the department of education (EDN 300 - state and district administration) for the purpose of resuming case management of workers’ compensation claims filed by department of education employees; provided further that internal savings from EDN 200, EDN 300, EDN 400, and EDN 500 or a combination thereof, shall be used to fund \$138,456 for the 4 personnel management specialist IV positions transferred from the department of human resources development; and provided further that the department of education shall submit reports to the legislature which detail all such transfers for each fiscal year.”

(46) By adding a new section to read as follows:

“SECTION 91.1. Provided that the auditor shall conduct an audit of the student transportation program (AGS 808); provided further that the report shall include, but not be limited to, an analysis of accounting procedures including a review of internal controls relating to the collection of student transportation fees, procurement practices, and personnel and fiscal accountability; provided further that the auditor shall determine the operating costs of this program, review the expenditures for the program, and determine if all expenditures are for operating costs, or if expenditures are being made for costs other than operating costs, and identify those nonoperating costs; and provided further that the auditor shall provide this report to the legislature no later than twenty days prior to the convening of the 1999 regular session.”

(47) By amending section 96 to read as follows:

“SECTION 96. Provided that the department of education is authorized to transfer funds among and within appropriations for special education, Felix, and comprehensive student alienation programs in school-based budgeting (EDN 100) and Felix administration, educational assessment, and prescriptive services in instructional support (EDN 200) for the purposes of addressing the requirements of the Felix consent decree which [includes] may include the implementation of the department of education’s comprehensive student support system (CSSS); provided further that the designated CSSS demonstration sites shall include, but not be limited to, the McKinley, Kaiser, Molokai, and Konawaena high school complexes and the Mokihana project in the Kauai district; provided further that the departments of health, human services, accounting and general services, human resource development, and budget and finance, with the cooperation of the family courts, counties, and governor’s office, shall work with the department of education to facilitate the appropriate implementation of the CSSS demonstration projects in order to meet the Felix consent decree expectations with personnel, funds, and/or technical assistance, as appropriate; provided further that the department of education shall prepare a report which shall include, but not be limited to, sources and destination of funds transferred, purposes of the fund transfer and progress of implementation toward meeting the goals and objectives of CSSS; provided further that the department of education, under the provisions of this section, shall not transfer allocated resources out of school-based budgeting (EDN 100); and provided further that the department of education shall submit this report to the legislature no later than twenty days prior to the convening of the 1998 and 1999 regular sessions.”

(48) By adding a new section to read as follows:

“SECTION 97.1. Provided that the department of education shall establish accreditation standards for private Asian-pacific language schools in order to supplement language course offerings of the department, and provided further that the department may contract with such Asian-pacific language schools to provide after school foreign language programs to encourage greater foreign language proficiency among all students.”

(49) By amending section 100 to read as follows:

“SECTION 100. Provided that of the general fund appropriation for university of Hawaii, Manoa (UOH 100), the sum of \$75,000 for fiscal year 1997-1998 shall be used for the purpose of establishing, developing, and operating the center for teacher education; provided that matching funds are committed by the National Network for Educational Renewal and university of Hawaii; provided further that the university may provide in-kind services of equal value[.]; provided further that the sum of \$225,000 for fiscal year 1998-1999 may be used for the purpose of establishing and operating a natural heritage data and training center at the university of Hawaii center for conservation research and training; provided further that matching funds are provided by the private sector.”

(50) By adding a new section to read as follows:

“SECTION 102.1. Provided that of the general fund appropriation for the university of Hawaii school of medicine (UOH 100), the sum of \$75,000 for fiscal year 1998-1999 shall be used as the state match for federal funds for the federally funded area health education center program.”

(51) By adding a new section to read as follows:

“SECTION 102.2. Provided that of the general fund appropriation for the university of Hawaii, Manoa (UOH 100), the sum of \$25,000 for fiscal year 1998-1999, shall be used for the Hawaii youth sport and fitness program; provided that a report on the progress of the program shall be submitted to the legislature no later than twenty days prior to the convening of the 1999 regular session.”

(52) By amending section 103 to read as follows:

“SECTION 103. Provided that of the general fund appropriation for university of Hawaii, West Oahu (UOH 700), the sum of \$281,104 for fiscal year 1997-1998 and the sum of [ \$281,104 ] \$267,049 for fiscal year 1998-1999 shall be used for the purpose of developing a labor studies degree program and to ensure the continued operation of the center for labor education and research.”

(53) By amending section 105 to read as follows:

“SECTION 105. [Provided that the university of Hawaii at Hilo (UOH 210), within current appropriations may have a baccalaureate program for astronomy commencing in the fall semester of 1997.] Provided that of the general fund appropriation for the university of Hawaii, Hilo (UOH 210), the sum of \$110,108 for fiscal year 1998-1999 shall be used for the astronomy program.”

(54) By amending section 106 to read as follows:

“SECTION 106. [Provided that a Master’s in education program at the university of Hawaii, Hilo (UOH 210), may be established commencing in fiscal year 1997-1998 within current appropriations.] Provided that of the general fund appropriation for the University of Hawaii, Hilo (UOH 210), the sum of \$110,592 for fiscal year 1998-1999 shall be used for the teacher education program.”

(55) By amending section 108 to read as follows:

“SECTION 108. [Provided that a Bachelor of Science in Active Volcano Technology may be established at the university of Hawaii, Hilo (UOH 210), commencing in fiscal year 1997-1998 within current appropriations.] Provided that of the general fund appropriation for the university of Hawaii, Hilo (UOH 210), the sum of \$37,000 for fiscal year 1998-1999 shall be used for the active volcano technology program.”

(56) By adding a new section to read as follows:

“SECTION 109.1. Provided that of the general fund appropriation for the university of Hawaii, Hilo (UOH 210), the sum of \$147,000 for fiscal year 1998-1999 shall be used for high technology distance education.”

(57) By adding a new section to read as follows:

“SECTION 115.1. Provided that of the general fund appropriation for system wide support (UOH 900), the sum of \$1,700,000 for fiscal year 1998-1999 shall be used for the new student information system.”

(58) By adding a new section to read as follows:

“SECTION 115.2. Provided that of the general fund reductions to the university of Hawaii system a priority to preserve the current level of undergraduate programs and services may be instituted by the president, chancellors, and board of regents; provided further that consideration should also be given to programs that directly serve the community and are economic drivers of the state.”

(59) By adding a new section to read as follows:

“SECTION 115.3. Provided that of the general fund appropriation for the university of Hawaii, system wide support (UOH 900), the sum of \$90,000 for fiscal year 1998-1999 shall be used for the operation of the business research library of the small business development center at the university of Hawaii; and provided further that of the general fund appropriation for the university of Hawaii, system wide support (UOH 900), the sum of \$300,000 for fiscal year 1998-1999 shall be used as state match for federal funds to operate the small business development center.”

(60) By adding a new section to read as follows:

“SECTION 116.1. Provided that of the general fund appropriation for performing and visual arts events (AGS 881), the sum of \$200,000 for fiscal year 1998-1999 shall be expended for a historical Chinese center to provide educational and cultural experiences.”

(61) By amending section 117 to read as follows:

“SECTION 117. Provided that of the general fund appropriation for park development and operation (LNR 806), the sum of \$100,000 for fiscal year 1997-1998 and the sum of [~~\$100,000~~] \$75,000 for fiscal year 1998-1999 shall be expended for a grant-in-aid to Mo'okini Luakini to preserve and protect the Mo'okini Heiau complex.”

(62) By amending section 118 to read as follows:

“SECTION 118. Provided that of the general fund appropriation for park development and operation (LNR 806), the sum of \$150,000 for fiscal year 1997-1998 and the sum of \$25,000 for fiscal year 1998-1999 shall be expended for a grant-in-aid to the Hawaii Nature Center.”

(63) By adding a new section to read as follows:

“SECTION 118.1. Provided that of the general fund appropriation for the department of land and natural resources state parks program (LNR 806), the sum of \$50,000 for fiscal year 1998-1999 shall be used to develop a pilot project for the use of state parks as scenic viewing sites; provided further that the department shall work with the department of business, economic development, and tourism for the project; and provided further that the department shall submit a report to the legislature no later than twenty days prior to the convening of the 1999 regular session.”

(64) By amending section 120 to read as follows:

“SECTION 120. Provided that of the general fund appropriation for general administration (PSD 900), the sum of \$5,000,000 for fiscal year 1997-1998 and the sum of [~~\$10,000,000~~] \$15,447,400 for fiscal year 1998-1999 shall be used for the transportation and necessary operating costs of housing 300 inmates in FY 1997-1998 and [600] 900 inmates in FY 1998-1999 in mainland based correctional facilities; provided further that any unencumbered and unexpended funds shall be lapsed to the general fund; and provided further that the department shall submit an

expenditure report to the legislature no later than twenty days prior to the convening of the 1998 and 1999 regular sessions.”

(65) By adding a new section to read as follows:

“SECTION 120.1. Provided that insurance regulatory services (CCA 106), shall evaluate the potential of consolidating all non-general funds administered by the program and prepare a report on the findings and recommendations of the evaluation; provided further that this report shall include, but not be limited to, the impact of consolidation of each non-general fund, on fee schedules of each non-general fund administered under the program, and a long-term financial plan of the consolidated fund; and provided further that the department of commerce and consumer affairs shall provide this report and any necessary proposed legislation to the legislature no later than twenty days prior to the convening of the 1999 regular session.”

(66) By adding a new section to read as follows:

“SECTION 123.1. Provided that of the general fund appropriation for office of elections (LTG 102), the sum of \$30,000 for fiscal year 1998-1999 may be expended at the discretion of the chief election officer for costs related to election activities.”

(67) By amending section 124 to read as follows:

“SECTION 124. Provided that of the general fund appropriation for program planning, analysis and budgeting (BUF 101), the sum of \$208,553,851 for fiscal year 1997-1998 and the sum of [~~\$235,134,594~~] \$207,709,829 for fiscal year 1998-1999 shall be used for the following purposes:

<u>Purpose</u>	<u>FY 1997-1998</u>	<u>FY 1998-1999</u>
Health fund premiums actives and retirees	\$202,959,234	[ <del>\$229,539,977</del> ] <u>\$202,329,861</u>
Witness fees and related expenses	\$ 2,552,262	\$ 2,552,262
Court appointed counsel	\$ 3,042,355	[ <del>\$ 3,042,355</del> ] <u>\$ 2,827,706</u>

provided further that the funds shall not be transferred for any other purpose; and provided further that the department of budget and finance shall submit to the legislature a detailed report of all expenditures no later than twenty days prior to the convening of the 1998 and 1999 regular sessions.”

(68) By amending section 125 to read as follows:

“SECTION 125. Provided that of the general fund appropriation for supporting services-revenue collection (TAX 107), the sum of \$692,082 for fiscal year 1997-1998 and the sum of [~~\$587,908~~] \$318,715 for fiscal year 1998-1999 shall be used for the redesign and implementation of a new integrated tax information management system; provided further that any unencumbered and unexpended funds shall be lapsed to the general fund; and provided further that the department of taxation shall submit a progress and expenditure report to the legislature no later than twenty days prior to the convening of the 1998 and 1999 regular sessions.”

(69) By amending section 128 to read as follows:

“SECTION 128. Provided that of the general fund appropriation for financial administration division (BUF 115), the sum of [~~\$393,278,770~~] \$387,728,909 for fiscal year 1997-1998 and the sum of [~~\$408,875,140~~] \$384,170,605 for fiscal year 1998-1999 shall be used only for the following purpose:

<u>Purpose</u>	<u>FY 1997-1998</u>	<u>FY 1998-1999</u>
Interest and principal on general obligation bonds	[\$393,278,770] <u>\$387,728,909</u>	[\$408,875,140] <u>\$384,170,605</u>

provided further that the funds shall not be transferred for any other purpose; and provided further that the department of budget and finance shall submit to the legislature a detailed report of all expenditures no later than twenty days prior to the convening of the 1998 and 1999 regular sessions.”

(70) By adding a new section to read as follows:

“SECTION 130.1. Provided that of the general fund appropriation for financial administration (BUF 115), the sum of \$2,500 for fiscal year 1998-1999 shall be expended at the discretion of the director of budget and finance to host the 1998 National Association of State Treasurers Western Regional Conference.”

(71) By amending section 132 to read as follows:

“SECTION 132. Provided that of the general fund appropriation for work force attraction, selection, classification and effectiveness (HRD 102), the sum of \$6,490,773 for fiscal year 1997-1998 and the sum of [~~\$6,421,784~~] \$5,421,784 for fiscal year 1998-1999 shall be expended to fund workers’ compensation claims; and provided further that the department of human resources development shall submit an itemized expenditure report to the legislature no later than twenty days prior to the convening of the 1998 and 1999 regular sessions.”

(72) By amending section 133 to read as follows:

“SECTION 133. Provided that of the general fund appropriation for work force attraction, selection, classification, and effectiveness (HRD 102), the sum of \$3,339,636 for fiscal year 1997-1998 and the sum of [~~\$3,405,772~~] \$2,905,772 for fiscal year 1998-1999 shall be used to fund unemployment compensation claims of former state employees; provided further that any unrequired funds shall be lapsed to the general fund; and provided further that the department shall submit a detailed report of all expenditures for such claims no later than twenty days prior to the convening of the 1998 and 1999 regular sessions.”

(73) By adding a new section to read as follows:

“SECTION 134.1. Provided that of the general fund appropriation for supporting services - human resources development (HRD 191), the sum of \$1,743,972 for fiscal year 1998-1999 shall be used to design, develop and implement the integrated Human Resource Management System.”

(74) By amending section 135 to read as follows:

“SECTION 135. Provided that of the general fund appropriation for retirement (BUF 141), the sum of \$274,799,023 for fiscal year 1997-1998 and the sum of [~~\$219,431,253~~] \$215,338,284 for fiscal year 1998-1999 shall be used only for the following purposes:

<u>Purpose</u>	<u>FY 1997-1998</u>	<u>FY 1998-1999</u>
Pension accumulation	\$176,505,360	\$120,134,480
Minimum pension	\$ - 0 -	\$ - 0 -
Social security and medicare contributions	\$ 98,293,663	[\$ 99,296,773] <u>\$ 95,203,804</u>

provided further that the funds shall not be transferred for any other purpose; and provided further that the department of budget and finance shall submit to the legislature a detailed report of all expenditures not later than twenty days prior to the convening of the 1998 and 1999 regular sessions.”

(75) By amending section 136 to read as follows:



“SECTION 136. Provided that of the special fund appropriation for public lands management (LNR 101), the sum of \$1,900,000 for fiscal year [1997-1998] 1998-1999 shall be used for the planning, design, and implementation of the computerization of the department of land and natural resources land division to assist in the management of state lands; provided further that the department of land and natural resources may create an asset management program to more strategically and effectively manage the different classes of lands through real estate and market analyses; and provided further that a report on the expenditure of funds and progress of the implementation of the computerization shall be submitted to the legislature no later than twenty days prior to the convening of the [1998] 1999 regular session.”

(76) By amending section 139 to read as follows:

“SECTION 139. Provided that of the general fund appropriation for building repairs and alterations (AGS 233), the sum of \$2,493,346 for fiscal year 1997-1998 and the sum of [\$2,493,346] \$2,438,692 for fiscal 1998-1999 shall be used only for operation of the repairs and alterations program and shall not be transferred for personnel or any other purpose; provided further that the funds not expended for this purpose shall be lapsed to the general fund; and provided further that the department of accounting and general services shall provide an expenditure report submitted to the legislature no later than twenty days prior to the convening of the 1998 and 1999 regular sessions.”

SECTION 5. PART IV, Act 328, Session Laws of Hawaii 1997, is amended by amending section 140A to read as follows:

“SECTION 140A. CAPITAL IMPROVEMENT PROJECTS AUTHORIZED. The sums of money appropriated or authorized in part II of this Act for capital improvements shall be expended for the projects listed below. Accounting of the appropriations by the department of accounting and general services shall be based on the projects as such projects are listed in this section. Several related or similar projects may be combined into a single project, if such combination is advantageous or convenient for implementation; provided that the total cost of the projects thus combined shall not exceed the total of the sum specified for the projects separately. (The amount after each cost element and the total funding for each project listed in this part are in thousands of dollars.)

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F

**A. ECONOMIC DEVELOPMENT**

**BED113 - STATE TOURISM OFFICE**

- 1. P94001 CONVENTION CENTER FACILITY, OAHU

DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE CONVENTION CENTER FACILITY. PROJECT TO INCLUDE BUILDING AND GROUND IMPROVEMENT; PARKING; UTILITIES; FURNISHINGS; AND OTHER NECESSARY APPURTENANCES. FUNDS NOT NEEDED IN A COST ELEMENT MAY BE USED IN ANOTHER.

DESIGN	1
CONSTRUCTION	1,998
EQUIPMENT	1

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	BED	2,000C			C
2.	WC002	CONVENTION CENTER FACILITY SIGNAGE, OAHU					
		DESIGN AND CONSTRUCTION FOR DIRECTIONAL AND MESSAGE SIGNS FOR CONVENTION USERS AND THE GENERAL PUBLIC IN THE AREA SURROUNDING THE NEW HAWAII CONVENTION CENTER.					
		DESIGN		15			
		CONSTRUCTION		145			
		TOTAL FUNDING	BED	160C			C
3.	WC003	CONVENTION CENTER FACILITY SIDEWALK IMPROVEMENTS, OAHU					
		DESIGN AND CONSTRUCTION OF SIDEWALK IMPROVEMENTS IN THE VICINITY OF THE HAWAII CONVENTION CENTER ALONG KALAKAUA AVENUE FROM ALA MOANA TO ALA WAI BOULEVARD.					
		DESIGN		100			
		CONSTRUCTION					830
		TOTAL FUNDING	BED	100C			830C
4.	P97001	ALA WAI CANAL PEDESTRIAN BRIDGE, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR A PEDESTRIAN BRIDGE OVER THE ALA WAI CANAL IN THE VICINITY OF THE CONVENTION CENTER, MAKAI OF THE KALAKAUA BRIDGE.					
		PLANS		50			
		DESIGN		200			
		CONSTRUCTION		1,250			
		TOTAL FUNDING	BED	1,500C			C
4A.		VOLCANO ART CENTER, HAWAII					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR (2) INDOOR CLASSROOMS, A MULTI-PURPOSE STUDIO CLASSROOM, AN OUTDOOR WORK AREA, AN ADMINISTRATION BUILDING, SHORT-TERM STUDENT HOUSING, AND HOUSING SUPPORT FACILITIES. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.					
		PLANS					25
		DESIGN					75
		CONSTRUCTION					470
		EQUIPMENT					16
		TOTAL FUNDING	BED		C		586C
4B.		JAPANESE CULTURAL CENTER OF HAWAII, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR A JAPANESE CULTURAL CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.					
		PLANS					1
		DESIGN					1
		CONSTRUCTION					498

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	BED		C		500C
4C.		ORANGUTAN SANCTUARY, PANAWEA, HAWAII					
		PLANS, DESIGN, AND CONSTRUCTION FOR AN ORANGUTAN SANCTUARY IN PANAWEA, HAWAII. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.					
		PLANS					1
		DESIGN					1
		CONSTRUCTION					985
		TOTAL FUNDING	BED		C		987C

**BED143 - HIGH TECHNOLOGY DEVELOPMENT CORPORATION**

5. TE001 HAWAII ISLAND BUSINESS INCUBATOR FACILITIES, HAWAII

PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR BUSINESS INCUBATOR AND EDUCATION FACILITIES TO BE LOCATED ON THE ISLAND OF HAWAII. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

PLANS			25		
DESIGN			25		
CONSTRUCTION			648		700
EQUIPMENT			2		
TOTAL FUNDING	BED		700C		C
	BED			N	700N

**AGR132 - ANIMAL DISEASE CONTROL**

6. 981321 BIOSAFETY LABORATORY, OAHU

PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A BIOSAFETY LABORATORY TO CONDUCT RABIES ANTIBODY TESTING.

PLANS			1		
DESIGN			98		
CONSTRUCTION			700		
EQUIPMENT			1		
TOTAL FUNDING	AGS		800C		C

**AGR141 - AGRICULTURAL RESOURCE MANAGEMENT**

7. 920011 LALAMILO DISTRIBUTION PIPELINE, WAIMEA IRRIGATION SYSTEM, HAWAII

PLANS AND DESIGN OF PIPELINE FOR LALAMILO TO REPLACE CEMENT LINED STEEL PIPES CONTAINING ASBESTOS CONTAINING MATERIAL WITH DUCTILE IRON PIPE, INCLUDING APPURTENANT WORKS.

PLANS			10		
DESIGN			20		
TOTAL FUNDING	AGR		30C		C

8. 970001 WAIANAE AGRICULTURAL PARK, DRAINAGE IMPROVEMENTS, OAHU

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS, DESIGN, AND CONSTRUCTION FOR THE WAIANAE AGRICULTURAL PARK SUBDIVISION, CONSISTING OF OPEN DITCHES, SEDIMENT PONDS, AND OTHER APPURTENANT WORKS.					
		PLANS			50		
		DESIGN			100		50
		CONSTRUCTION			700		500
		TOTAL FUNDING	AGR		850C		550C
9.		UPCOUNTRY MAUI WATERSHED PROJECT, MAUI					
		PLANS, LAND ACQUISITION, AND DESIGN FOR INSTALLATION OF PIPELINE FOR THE UPCOUNTRY MAUI WATERSHED PROJECT, KULA, MAUI. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS			399		
		LAND			1		
		DESIGN			550		
		TOTAL FUNDING	AGR		400C		C
			AGR		550N		N
9A.	980002	LOWER HAMAKUA DITCH WATERSHED PROJECT, HAWAII					
		PLANS, DESIGN, AND CONSTRUCTION IMPROVEMENTS FOR AN IRRIGATION PROJECT ENCOMPASSING FORMER SUGAR CANE FIELDS SERVED BY THE LOWER HAMAKUA DITCH.					
		PLANS					10
		DESIGN					90
		CONSTRUCTION					900
		TOTAL FUNDING	AGR			C	1,000C
9B.	W00003	MAUNAWILI DITCH IMPROVEMENT, WAIMANALO IRRIGATION SYSTEM, OAHU					
		CONSTRUCTION IMPROVEMENTS TO REHABILITATE RESERVOIRS, DITCHES, AND INTAKES TOGETHER WITH APPURTENANT WORKS.					
		CONSTRUCTION					600
		TOTAL FUNDING	AGR			C	600C
9C.		KULA VACUUM COOLING PLANT, MAUI					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS FOR THE VACUUM COOLING CHAMBERS AT KULA, MAUI.					
		DESIGN					1
		CONSTRUCTION					49
		TOTAL FUNDING	AGR			C	50C
9D.		KAMUELA VACUUM COOLING PLANT, HAWAII					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS FOR THE VACUUM COOLING PLANT AT KAMUELA, HAWAII.					
		DESIGN					1
		CONSTRUCTION					49

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	AGR		C		50C

AGR192 - GENERAL ADMINISTRATION FOR AGRICULTURE

11. 981921 MISCELLANEOUS HEALTH, SAFETY, CODE, AND OTHER REQUIREMENTS, STATEWIDE

PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS TO ADDRESS HEALTH, SAFETY, CODE, AND OTHER REQUIREMENTS FOR DEPARTMENT OF AGRICULTURE FACILITIES, STATEWIDE.

PLANS			1	
DESIGN			68	
CONSTRUCTION			630	
EQUIPMENT			1	
TOTAL FUNDING	AGS		700C	C

BED120 - ENERGY DEVELOPMENT AND MANAGEMENT

12. NELH13 NELHA/HOST PARK INFRASTRUCTURE UPGRADES, HAWAII

PLANS, DESIGN, AND CONSTRUCTION FOR EXPANSION OF 8" HOST PARK WATER MAIN AND ELECTRICAL DISTRIBUTION IMPROVEMENTS.

PLANS			9	
DESIGN			45	
CONSTRUCTION			425	396
TOTAL FUNDING	BED		479C	396C

13. NELH15 NELHA/HOST PARK ELECTRICAL INFRASTRUCTURE UPGRADES, HAWAII

PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE NELHA 12.47 KVOLT ELECTRICAL SYSTEM TO INSTALL ELECTRICAL POWER TO EXISTING STREET LIGHTS AND SECURITY HOUSE AND FOR A LAB PUMP STATION EMERGENCY GENERATOR.

PLANS			15	5
DESIGN			35	12
CONSTRUCTION			225	25
EQUIPMENT			125	65
TOTAL FUNDING	BED		400C	107C

- 13A. NELH19 INTERIM SURFACE SEAWATER SUPPLY TO HOST PARK, HAWAII

PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR AN INTERIM SURFACE SEAWATER SUPPLY TO HOST PARK.

PLANS				5
DESIGN				19
CONSTRUCTION				174
EQUIPMENT				40
TOTAL FUNDING	BED		C	238C

- 13B. NELH14 NELHA 40"/28" AND 18"/24" PUMP STATION UPGRADES, HAWAII

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR PUMP STATION UPGRADES TO ACCOMMODATE HIGH EFFICIENCY VERTICAL PUMPS WITH DRY MOTORS.					
		PLANS					59
		DESIGN					176
		CONSTRUCTION					246
		EQUIPMENT					248
		TOTAL FUNDING	BED		C		729C
13C.	NELH12	HGPA GEOTHERMAL WELL PLUG AND ABANDONMENT, HAWAII					
		CONSTRUCTION FOR PLUGGING AND ABANDONMENT OF THE HGP-A WELL AT THE PUNA RESEARCH FACILITY TO ISOLATE THE GEOTHERMAL RESERVOIR AND ELIMINATE POTENTIAL RISK OF HYDROGEN SULPHIDE OR SILICA CONTAMINANTS COMMUNICATING WITH THE SURROUNDING COMMUNITY OF PUNA.					
		CONSTRUCTION					700
		TOTAL FUNDING	BED		C		700C
<b>LNR141 - WATER AND LAND DEVELOPMENT</b>							
14.	G09	KAPAA HOMESTEADS WELL NO. 3, KAUAI					
		CONSTRUCTION FOR AN EXPLORATORY WELL. PROJECT TO INCLUDE DRILLING, CASING INSTALLATION, PUMP TESTING, AND OTHER INCIDENTAL AND RELATED WORK.					
		CONSTRUCTION				725	
		TOTAL FUNDING	LNR			725C	C
15.	G21	HINA LANI DRIVE WATER TRANSMISSION LINE AND RESERVOIR, HAWAII					
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION OF A WATER TRANSMISSION PIPELINE, RESERVOIR AND OTHER INCIDENTAL AND RELATED WORK.					
		PLANS				44	
		LAND				1	
		DESIGN				86	
		CONSTRUCTION					869
		TOTAL FUNDING	LNR			131C	869C
16.	G42	ALA WAI CANAL FLUSHING SYSTEM, OAHU					
		PLANS AND DESIGN FOR A FLUSHING SYSTEM TO IMPROVE CIRCULATION AND WATER QUALITY IN THE ALA WAI CANAL.					
		PLANS				300	
		DESIGN					500
		TOTAL FUNDING	LNR			300C	500C
17.	G78	KEAHOLE RESERVOIR, HAWAII					
		PLANS, DESIGN, AND CONSTRUCTION OF A WATER RESERVOIR, PIPELINE, AND OTHER INCIDENTAL AND RELATED WORK.					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS			35		
		DESIGN			69		
		CONSTRUCTION			743		
		TOTAL FUNDING	LNR		847C		C
19.	J38	WATER MASTER PLAN FOR STATE PROJECTS, OAHU					
		PLANS FOR A MASTER PLAN OF THE WATER REQUIREMENTS FOR STATE AGENCIES' PROJECTS ON OAHU.					
		PLANS			300		
		TOTAL FUNDING	LNR		300C		C
20.	J40	ALA WAI PROMENADE, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR A PROMENADE ALONG ALA WAI CANAL BETWEEN THE KALAKAUA BRIDGE AND ALA WAI FIELD.					
		PLANS			1		
		DESIGN			1		
		CONSTRUCTION			998		
		TOTAL FUNDING	LNR		1,000C		C
21.	G25A	KEOPU EXPLORATORY WELL, HAWAII					
		DESIGN AND CONSTRUCTION OF AN EXPLORATORY WELL INCLUDING WELL DRILLING, CASING INSTALLATION, PUMP TESTING, AND OTHER RELATED AND INCIDENTAL WORK.					
		DESIGN			20		
		CONSTRUCTION			1,600		
		TOTAL FUNDING	LNR		1,620C		C
22.	G43A	KAHUKU WELL DEVELOPMENT, OAHU					
		PLANS AND DESIGN FOR CONSTRUCTION OF PUMPS, CONTROLS, CONNECTING PIPELINE AND OTHER INCIDENTAL AND RELATED WORK.					
		PLANS			50		
		DESIGN			200		
		TOTAL FUNDING	LNR		250C		C
23.	G43B	PEARL HARBOR WELLS, PHASE I, EXPLORATORY WELLS AND SITE ACQUISITION, OAHU					
		LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR EXPLORATORY WELLS INCLUDING CASING INSTALLATION, PUMP TESTING, AND OTHER RELATED AND INCIDENTAL WORK.					
		LAND			1		
		DESIGN			1		
		CONSTRUCTION			997	2,000	
		EQUIPMENT			1		
		TOTAL FUNDING	LNR		1,000C	2,000C	
24.	J37A	WATER PROJECT PARTNERSHIPS, STATEWIDE					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT TO ENTER INTO PARTNERSHIPS WITH CITY AND/OR STATE AGENCIES OR PRIVATE ENTITIES TO EITHER DEVELOP OR PURCHASE WATER CREDITS TO MEET DEMANDS OF STATE PROJECTS.					
					1		
					1		
					1		
					2,565		
					1		
			TOTAL FUNDING	LNR	2,569C		C
25.	G75A	EXPLORATORY WATER WELLS, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR THREE EXPLORATORY WATER WELLS AT VARIOUS OAHU LOCATIONS. PROJECT TO INCLUDE WELL DRILLING, CASING INSTALLATION, PUMP TESTING AND OTHER RELATED WORK.					
					120		
					180		
							900
			TOTAL FUNDING	LNR	300C		900C
26.		PALOLO WATER DEVELOPMENT, OAHU					
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION OF PUMPS, CONTROLS, CONNECTING PIPELINE, AND OTHER INCIDENTAL AND RELATED WORK.					
							1
							1
							1
							4,997
			TOTAL FUNDING	LNR		C	5,000C
26A.		MANOA RECREATION CENTER, MANOA STREAM BANK EROSION CONTROL, OAHU					
		DESIGN AND CONSTRUCTION TO LANDSCAPE STREAM BANK FOR EROSION CONTROL.					
							1
							49
			TOTAL FUNDING	LNR		C	50C
26B.		ALA WAI CANAL TO MANOA TRAIL SYSTEM, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR A BIKE PATH AND TRAIL SYSTEM FROM THE ALA WAI CANAL ALONG THE MANOA-PALOLO CANAL UP MANOA STREAM THROUGH UH MANOA VILLAGE LINKING AN EXISTING TRAIL BETWEEN THE ALA WAI CANAL AND DATE STREET.					
							1
							1
							198



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	LNR		C		200C
26C.		KAIMUKI HIGH SCHOOL STREAM BANK IMPROVEMENT, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION TO LANDSCAPE THE STREAM BANK ALONG MANOA-PALOLO CHANNEL ADJACENT TO KAIMUKI HIGH SCHOOL AND CONSTRUCTION OF A TRAIL FROM DATE STREET TO KAIMUKI AVENUE.					
		PLANS					1
		DESIGN					1
		CONSTRUCTION					73
		TOTAL FUNDING	LNR		C		75C
26D.		ST. LOUIS HEIGHTS TRAIL AND EROSION REDUCTION, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION TO STABILIZE ERODING SLOPES WITH VEGETATION INCLUDING PUBLIC ACCESS VIA STREAM SIDE TRAIL FROM MANOA STREAM TO WAAHILA RIDGE AND CONSTRUCTION OF A COMMUNITY GARDEN AND BOTANICAL GARDEN.					
		PLANS					1
		DESIGN					1
		CONSTRUCTION					18
		TOTAL FUNDING	LNR		C		20C
26E.		MANOA AND PALOLO, EROSION CONTROL, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION TO STABILIZE BANKS AND LANDSCAPING AS NEEDED ALONG MANOA AND PALOLO VALLEY STREAMS.					
		PLANS					1
		DESIGN					1
		CONSTRUCTION					123
		TOTAL FUNDING	LNR		C		125C
26F.		GREENBELTS AND VEGETATIVE BUFFERS, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR PLANT BUFFERS ALONG STREAMS, NEXT TO ROADWAYS, PARKING LOTS, OR OTHER PAVED SURFACES TO FILTER URBAN STORM WATER RUNOFF BEFORE IT REACHES STREAMS IN THE ALA WAI CANAL WATERSHED.					
		PLANS					1
		DESIGN					1
		CONSTRUCTION					123
		TOTAL FUNDING	LNR		C		125C
26G.		PUU UALAKAA STATE WAYSIDE PARK, OAHU					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO PUU UALAKAA STATE PARK.					
		DESIGN				30	
		CONSTRUCTION				120	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	LNR		150C		C
26H.		UPPER PALOLO VALLEY WATER SYSTEM IMPROVEMENTS, OAHU					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR INFRASTRUCTURE IMPROVEMENTS FOR THE UPPER PALOLO VALLEY WATER SYSTEM. PROJECT TO INCLUDE ACQUISITION OF LAND FOR ACCESS AND UTILITY EASEMENTS, PIPING, TANK AND CONTROLS, PUMPS, AND OTHER RELATED IMPROVEMENTS.					
		LAND					50
		DESIGN					20
		CONSTRUCTION					130
		TOTAL FUNDING	LNR		C		200C
<b>B. EMPLOYMENT</b>							
<b>HMS802 - VOCATIONAL REHABILITATION</b>							
1.	802-3	HO'OPONO WORKSHOP AND AUDITORIUM AIR CONDITIONING, OAHU					
		CONSTRUCTION FOR AIR CONDITIONING OF THE HO'OPONO BUILDING WORKSHOP AND AUDITORIUM. PROJECT TO INCLUDE A DRYWALL SECTION IN THE WORKSHOP TO FACILITATE AIR CONDITIONING EFFECTIVENESS.					
		CONSTRUCTION				99	
		TOTAL FUNDING	AGS			99N	N
<b>C. TRANSPORTATION FACILITIES</b>							
2.	A11A	HONOLULU INT'L AIRPORT INTERISLAND TERMINAL CONCESSION IMPROVEMENTS, OAHU					
		DESIGN AND CONSTRUCTION OF A NEW 3,600 SQUARE FEET CANTILEVERED CONCESSION SPACE IN THE MAKAI PIER OF THE INTERISLAND TERMINAL.					
		DESIGN				104	
		CONSTRUCTION				946	
		TOTAL FUNDING	TRN			1,050B	B
2A.	A11B	HONOLULU INT'L AIRPORT INTERISLAND WIKI-WIKI BUS TERMINAL, OAHU					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO THE THIRD LEVEL WIKI-WIKI BUS TERMINAL AT THE INTERISLAND TERMINAL.					
		DESIGN					100
		CONSTRUCTION					900
		TOTAL FUNDING	TRN		B		1,000B
2B.		HONOLULU INT'L AIRPORT SECURITY CHECK, OAHU					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN AND CONSTRUCTION OF A NEW SECONDARY SECURITY CHECK-POINT MAKAI OF THE EXISTING CHECK-POINT.					
		DESIGN					10
		CONSTRUCTION					190
		TOTAL FUNDING	TRN		B		200B
3.	A20A	HONOLULU INT'L AIRPORT INTRA-TERMINAL TRANSPORTATION SYSTEM, PHASE II, OAHU					
		DESIGN AND CONSTRUCTION TO IMPLEMENT THE RECOMMENDATIONS OF THE INTRA-TERMINAL TRANSPORTATION SYSTEM, PHASE I PLANNING STUDY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN					5,000
		CONSTRUCTION					45,000
		TOTAL FUNDING	TRN		B		26,250B
			TRN		N		23,750N
5.	A23B	HONOLULU INT'L AIRPORT PERIMETER ROAD, OAHU					
		CONSTRUCTION FOR HONOLULU INTERNATIONAL AIRPORT PERIMETER ROAD TO THE SOUTH RAMP OF THE AIRPORT.					
		CONSTRUCTION		2,000			3,400
		TOTAL FUNDING	TRN	2,000B			B
			TRN		N		3,400N
6.	A23C	HONOLULU INT'L AIRPORT RUNWAY 8L-26R MIDFIELD ACCESS TAXIWAY, OAHU					
		DESIGN AND CONSTRUCTION FOR A MIDFIELD TAXIWAY TO RUNWAY 8L-26R.					
		DESIGN		500			
		CONSTRUCTION		4,500			
		TOTAL FUNDING	TRN	5,000B			B
7.	A23D	HONOLULU INT'L AIRPORT RUNWAY 8R-26L EXTENSION WITH CONCRETE THRESHOLD, OAHU					
		DESIGN FOR A 100 FEET EXTENSION AND CONCRETE THRESHOLD FOR RUNWAY 8R-26L.					
		DESIGN					650
		TOTAL FUNDING	TRN		B		650B
8.	A23E	HONOLULU INT'L AIRPORT TRANSIENT AIRCRAFT PARKING, OAHU					
		DESIGN FOR AN APRON AT NORTH RAMP NEAR LAGOON DRIVE FOR AIRCRAFT NOT USING THE GATES (TRANSIENT AIRCRAFT).					
		DESIGN					229
		TOTAL FUNDING	TRN		B		229B
9.	A23F	HONOLULU INT'L AIRPORT ENGINE RUNUP PAD, OAHU					
		DESIGN AND CONSTRUCTION FOR AN ENGINE RUNUP PAD AT THE REEF RUNWAY.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN				50	
		CONSTRUCTION				450	
		TOTAL FUNDING	TRN			500B	B
10.	A23G	HONOLULU INT'L AIRPORT MAUNAWAI CANAL CULVERT EXTENSION, OAHU					
		DESIGN AND CONSTRUCTION TO EXTEND THE EXISTING MAUNAWAI CANAL CULVERT.					
		DESIGN				700	
		CONSTRUCTION				6,300	
		TOTAL FUNDING	TRN			7,000B	B
10A.	A23H	HIA NOISE ATTENUATION, IROQUOIS POINT ELEMENTARY SCHOOL, OAHU					
		CONSTRUCTION TO ATTENUATE NOISE THROUGHOUT THE SCHOOL. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION					4,400
		TOTAL FUNDING	TRN			B	4,200B
			TRN			N	200N
10B.	A23I	HONOLULU INT'L AIRPORT ITINERANT PARKING APRON, OAHU					
		DESIGN AND CONSTRUCTION FOR A 250,000 SQUARE FOOT APRON AND TWO CONNECTING TAXIWAYS TO ALLOW ITINERANT PARKING FOR UP TO FOUR WIDE-BODIED AIRCRAFTS.					
		DESIGN					300
		CONSTRUCTION					2,700
		TOTAL FUNDING	TRN			B	3,000B
10C.	A23J	HONOLULU INT'L AIRPORT WASHWATER CONTAINMENT, OAHU					
		DESIGN AND CONSTRUCTION TO EXPAND THE VEHICLE AND AIRCRAFT WASHWATER CONTAINMENT FACILITY AT THE AIRPORT. PROJECT TO INCLUDE ENLARGING WASHRACKS AT THE NORTH AND SOUTH RAMP, UPGRADING EVAPORATION PONDS, AND INCREASING WASHWATER CONTAINMENT COVERAGE WITHIN THE AIRPORT. THIS PROJECT IS NEEDED TO COMPLY WITH THE NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT PROCESS.					
		DESIGN					300
		CONSTRUCTION					1,200
		TOTAL FUNDING	TRN			B	1,500B
11.	A35A	HONOLULU INT'L AIRPORT DIAMOND HEAD CONCOURSE SIGNAGE AND GRAPHICS, OAHU					
		DESIGN FOR THE NEW DIAMOND HEAD CONCOURSE EXPANSION SIGNAGE AND GRAPHICS.					
		DESIGN					120

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	TRN		B		120B
11A.	A35B	HONOLULU INT'L AIRPORT SIGNAGE AND GRAPHICS, PHASE IV, OAHU					
		CONSTRUCTION FOR SIGNAGE AND GRAPHICS, HONOLULU INTERNATIONAL AIRPORT.					
		CONSTRUCTION					4,950
		TOTAL FUNDING	TRN		B		4,950B
12.	A37A	HONOLULU INT'L AIRPORT ADVANCE LANDING SYSTEM, OAHU					
		DESIGN AND CONSTRUCTION FOR A GLOBAL POSITIONING SYSTEM (GPS) AND NODE.					
		DESIGN				5	
		CONSTRUCTION				45	
		TOTAL FUNDING	TRN			50B	B
13.	A41A	HONOLULU INT'L AIRPORT DIAMOND HEAD CONCOURSE CONCESSION IMPROVEMENTS, OAHU					
		DESIGN TO EXPAND AND RENOVATE 21,000 SQUARE FEET OF CONCESSION SPACE.					
		DESIGN					131
		TOTAL FUNDING	TRN		B		131B
14.	A41B	HONOLULU INT'L AIRPORT EWA CONCOURSE CONCESSION IMPROVEMENTS, OAHU					
		DESIGN TO EXPAND AND RENOVATE 14,400 SQUARE FEET OF CONCESSION SPACE.					
		DESIGN					89
		TOTAL FUNDING	TRN		B		89B
15.	A41C	HONOLULU INT'L AIRPORT OVERSEAS TERMINAL CONCESSION IMPROVEMENTS, OAHU					
		DESIGN TO EXPAND AND RENOVATE THE EXISTING CONCESSION SPACE IN THE CENTRAL TERMINAL AREA.					
		DESIGN					830
		TOTAL FUNDING	TRN		B		830B
17.	A41E	HONOLULU INT'L AIRPORT DIAMOND HEAD CONCOURSE, PHASE I, OAHU					
		DESIGN AND CONSTRUCTION FOR A DOUBLE LOADED EXTENSION OF THE DIAMOND HEAD CONCOURSE.					
		DESIGN				11,480	
		CONSTRUCTION					54,520
		TOTAL FUNDING	TRN			11,480B	54,520B
18.	A41F	HONOLULU INT'L AIRPORT TICKET LOBBY IMPROVEMENTS, OAHU					
		DESIGN AND CONSTRUCTION OF IMPROVEMENTS TO THE OVERSEAS TERMINAL TICKET LOBBY.					
		DESIGN				500	300
		CONSTRUCTION				4,545	2,700

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	TRN	5,045B		3,000B	
19.	A41G	HONOLULU INT'L AIRPORT MODIFICATIONS TO OVERSEAS TERMINAL, OAHU					
		DESIGN AND CONSTRUCTION TO MODIFY THE SECOND AND THIRD LEVELS OF THE OVERSEAS CONCOURSE TO MEET CUSTOMS AND IMMIGRATION REQUIREMENTS FOR FOREIGN ARRIVALS.					
		DESIGN		1,000			
		CONSTRUCTION		9,090		1,375	
		TOTAL FUNDING	TRN	10,090B		1,375B	
21.	A41I	HONOLULU INT'L AIRPORT CENTRAL CONCOURSE MISCELLANEOUS MODIFICATIONS, OAHU					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS AND MODIFICATIONS TO THE CENTRAL CONCOURSE. PROJECT INCLUDES A GARDEN WALKWAY, MOVING SIDEWALK IN THE CENTRAL CONCOURSE AREA, AND RESTAURANT RENOVATIONS.					
		DESIGN		196		410	
		CONSTRUCTION		1,782		1,115	
		TOTAL FUNDING	TRN	1,978B		1,525B	
21A.	A41J	HONOLULU INT'L AIRPORT PUBLIC TOILET AND CUSTODIAL SUPPORT FACILITY, OAHU					
		DESIGN AND CONSTRUCTION FOR COMPLETE RENOVATION OF EXISTING RESTROOMS AT THE DIAMOND HEAD CONCOURSE, EWA CONCOURSE, TICKET LOBBY, AND BAGGAGE CLAIM RESTROOMS, AS WELL AS RENOVATION OF THE CUSTODIAL FACILITIES THROUGHOUT THE AIRPORT.					
		DESIGN				690	
		CONSTRUCTION				7,110	
		TOTAL FUNDING	TRN		B	7,800B	
21B.	A41K	HONOLULU INT'L AIRPORT ARCHITECTURAL BARRIER REMOVAL, PHASE II, OAHU					
		DESIGN AND CONSTRUCTION OF ARCHITECTURAL BARRIER REMOVAL NEEDED TO COMPLY WITH THE AMERICANS WITH DISABILITIES ACT (ADA) REQUIREMENTS AT HONOLULU INTERNATIONAL AIRPORT.					
		DESIGN				650	
		CONSTRUCTION				6,200	
		TOTAL FUNDING	TRN		B	2,850B	
			TRN		N	4,000N	
22.	A43B	HONOLULU INT'L AIRPORT LAGOON DRIVE FUEL STORAGE FACILITY, OAHU					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN AND CONSTRUCTION FOR A NEW FUEL STORAGE FACILITY PROJECT AT LAGOON DRIVE SITE. PROJECT INCLUDES ABOVE GROUND STORAGE TANKS, NECESSARY SPILL PROTECTION SYSTEM, FUEL LINES, AND OTHER RELATED IMPROVEMENTS.					
					3,700		
							33,300
		TOTAL FUNDING	TRN		3,700B		33,300B
23.	A43C	HONOLULU INT'L AIRPORT DIAMOND HEAD CONCOURSE LOADING BRIDGES, OAHU					
		DESIGN AND CONSTRUCTION FOR FOUR NEW LOADING BRIDGES FOR THE DIAMOND HEAD CONCOURSE EXPANSION.					
							160
							1,500
		TOTAL FUNDING	TRN			B	1,660B
24.	A43D	HONOLULU INT'L AIRPORT UALENA STREET AIR CARGO FACILITY, OAHU					
		DESIGN FOR A NEW CARGO FACILITY LOCATED ON UALENA STREET. PROJECT INCLUDES AN AIR CARGO BUILDING, PARKING, CARGO APRON, AND OTHER RELATED IMPROVEMENTS.					
					1,000		
		TOTAL FUNDING	TRN		1,000B		B
25.	A43E	HONOLULU INT'L AIRPORT GROUND SUPPORT EQUIPMENT FACILITY SITE WORK, OAHU					
		DESIGN AND CONSTRUCTION FOR SITE PREPARATION TO CONSOLIDATE THE GROUND SUPPORT EQUIPMENT FACILITY AT UALENA STREET.					
							70
							630
		TOTAL FUNDING	TRN			B	700B
26.	A43F	HONOLULU INT'L AIRPORT INTERISLAND MAINTENANCE FACILITY SITE WORK, OAHU					
		DESIGN FOR SITE PREPARATION TO RELOCATE THE INTERISLAND AIRCRAFT MAINTENANCE FACILITY.					
							501
		TOTAL FUNDING	TRN			B	501B
27.	A43G	HONOLULU INT'L AIRPORT RENTAL CAR OPERATIONS EXPANSION, OAHU					
		DESIGN TO EXPAND THE EXISTING RENTAL CAR OPERATIONS.					
							374
		TOTAL FUNDING	TRN			B	374B
28.	A43H	HONOLULU INT'L AIRPORT WATER QUALITY MANAGEMENT, OAHU					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN AND CONSTRUCTION FOR A SYSTEM TO COMPLY WITH PROVISIONS OF THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM.					
		DESIGN			100		
		CONSTRUCTION			900		
		TOTAL FUNDING	TRN		1,000B		B
29.	A43I	HONOLULU INT'L AIRPORT GROUND TRANSPORTATION STAGING AREA, OAHU					
		DESIGN AND CONSTRUCTION OF A PARKING AREA FOR LARGE VEHICLES SUCH AS TRUCKS AND BUSES.					
		DESIGN					67
		CONSTRUCTION					603
		TOTAL FUNDING	TRN			B	670B
29A.		HONOLULU INTERNATIONAL AIRPORT, BEAUTIFICATION WORK, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR THE BEAUTIFICATION OF LIGHTING AND LANDSCAPE ENHANCEMENT OF THE AIRPORT.					
		PLANS					1
		DESIGN					249
		CONSTRUCTION					750
		TOTAL FUNDING	TRN			B	1,000B
<b>TRN104 - GENERAL AVIATION</b>							
29B.	A71A	KALAELOA AIRPORT IMPROVEMENTS, OAHU					
		DESIGN AND CONSTRUCTION OF AIRPORT IMPROVEMENTS INCLUDING STRIPING, AIRFIELD LIGHTING, AND NAVIGATIONAL AIDS.					
		DESIGN					200
		CONSTRUCTION					1,300
		TOTAL FUNDING	TRN			B	1,500B
29C.	A71B	KALAELOA AIRPORT PERIMETER FENCE, OAHU					
		DESIGN AND CONSTRUCTION OF A PERIMETER FENCE NEEDED WHEN THE U.S. NAVY TRANSFERS THE AIRFIELD PORTION OF BARBERS POINT NAVAL AIR STATION TO THE STATE.					
		DESIGN					100
		CONSTRUCTION					1,000
		TOTAL FUNDING	TRN			B	1,100B
<b>TRN111 - HILO INTERNATIONAL AIRPORT</b>							
30.	510A	HILO INT'L AIRPORT HELICOPTER LEASE LOTS AND FACILITIES, HAWAII					



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN AND CONSTRUCTION FOR SITE IMPROVEMENTS (GRADING, UTILITIES, AND ACCESS) FOR NEW HELICOPTER LEASE LOTS AND SUPPORTING FACILITIES. PROJECT INCLUDES CONSTRUCTION OF APRON AND PARKING POSITIONS FOR HELICOPTERS.					
					150		
					1,350		
		TOTAL FUNDING	TRN		1,500B		B
31.	B10B	HILO INT'L AIRPORT HOLD CARGO BUILDING/LIGHT INDUSTRIAL FACILITIES, HAWAII					
		DESIGN AND CONSTRUCTION FOR ADDITIONAL CARGO AND LIGHT INDUSTRIAL FACILITIES WITHIN THE AIRPORT. PROJECT INCLUDES PARKING, AREA FOR CARGO STORAGE, MAKE-UP AND BREAKDOWN, AND INFRASTRUCTURE NEEDED TO SUPPORT THE FACILITY.					
					1,240		
							3,000
		TOTAL FUNDING	TRN		1,240B		3,000B
32.	B10C	HILO INT'L AIRPORT CONCESSION AND LOUNGE MODIFICATIONS, HAWAII					
		DESIGN AND CONSTRUCTION TO RELOCATE THE EXISTING CONCESSION FROM OUTSIDE THE SECURITY CHECKPOINT INTO THE PASSENGER LOUNGE AREA.					
							125
							1,137
		TOTAL FUNDING	TRN			B	1,262B
33.	B10D	HILO INT'L AIRPORT SIGNAGE AND GRAPHICS IMPROVEMENTS, HAWAII					
		DESIGN AND CONSTRUCTION FOR IMPROVED SIGNAGE OF THE CURBSIDE AND TERMINAL FACILITIES.					
					63		
					567		
		TOTAL FUNDING	TRN		630B		B
34.	B10E	HILO INT'L AIRPORT PASSENGER TERMINAL PARKING LOT MODIFICATIONS, HAWAII					
		DESIGN AND CONSTRUCTION TO RELOCATE THE PASSENGER PARKING LOT TICKET DISPENSER FROM THE WEST END OF THE PARKING LOT TO THE EAST END OF THE PARKING LOT AND OTHER RELATED PARKING LOT IMPROVEMENTS.					
					16		
					144		
		TOTAL FUNDING	TRN		160B		B
35.	B10F	HILO INT'L AIRPORT INTERISLAND CARRIER RELOCATION, HAWAII					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN AND CONSTRUCTION TO RELOCATE ONE OF THE INTERISLAND CARRIERS TO THE WEST BUILDING OF THE EXISTING TERMINAL. PROJECT TO INCLUDE THE RELOCATION OF ONE INTERISLAND CARRIER, INSTALLATION OF A NEW BAGGAGE CARROUSEL, AND RELOCATION OF THE HELICOPTER/AIR TOUR COUNTERS, COMPUTERS, AND TELECOMMUNICATION EQUIPMENT.					
						138	
						1,255	
			TOTAL FUNDING	TRN		1,393B	B
36.	B10G	HILO INT'L AIRPORT SEWER CONNECTION, HAWAII					
		DESIGN AND CONSTRUCTION FOR A SEWER CONNECTION TO THE COUNTY OF HAWAII SEWER SYSTEM.					
						49	
						441	
			TOTAL FUNDING	TRN		490B	B
37.	B10H	HILO INT'L AIRPORT T-HANGARS, HAWAII					
		DESIGN FOR A NEW SIX BAY T-HANGAR.					
						120	
			TOTAL FUNDING	TRN		120B	B
37A.	B10J	NOISE ATTENUATION KEAUKAHA ELEMENTARY SCHOOL, HILO					
		CONSTRUCTION TO ATTENUATE AIRCRAFT NOISE THROUGHOUT THE SCHOOL. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
							2,000
			TOTAL FUNDING	TRN		B	1,800B
						N	200N
37B.	B10K	HILO INT'L AIRPORT TERMINAL ROOF RECONSTRUCTION, HAWAII					
		DESIGN AND CONSTRUCTION FOR ASBESTOS ABATEMENT NEEDED FOR THE RECONSTRUCTION OF THE HILO TERMINAL ROOF.					
							1,000
							5,000
			TOTAL FUNDING	TRN		B	6,000B
37C.	B10L	HILO INT'L AIRPORT DRAINAGE AND ROAD IMPROVEMENTS, HAWAII					
		DESIGN AND CONSTRUCTION FOR DRAINAGE AND ROAD RECONSTRUCTION OF BRIG ROAD AT THE AIRPORT.					
							30
							270
			TOTAL FUNDING	TRN		B	300B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
37D.		HILO INTERNATIONAL AIRPORT IMPROVEMENTS FOR AVIATION CENTER, HAWAII					
		PLANS, DESIGN, AND CONSTRUCTION TO REFURBISH A PORTION OF HILO INTERNATIONAL AIRPORT FOR THE PURPOSE OF CREATING AN AVIATION CENTER.					
		PLANS					100
		DESIGN					400
		CONSTRUCTION					5,500
		TOTAL FUNDING	TRN		B		6,000B
<b>TRN114 - KE-AHOLE AIRPORT</b>							
38.	C03A	KEAHOLE-KONA INT'L AIRPORT ITINERANT AIRLINE AIRCRAFT PARKING, HAWAII					
		DESIGN AND CONSTRUCTION FOR AN APRON AREA TO BE USED FOR ITINERANT AIRCRAFT PARKING.					
		DESIGN				158	
		CONSTRUCTION				1,422	
		TOTAL FUNDING	TRN			1,580B	B
39.	C03B	KEAHOLE-KONA INT'L AIRPORT PARKING FACILITIES, HAWAII					
		DESIGN AND CONSTRUCTION FOR ADDITIONAL GROUND TRANSPORTATION AND PUBLIC PARKING FACILITIES.					
		DESIGN				756	
		CONSTRUCTION					6,804
		TOTAL FUNDING	TRN			756B	6,804B
40.	C03C	KEAHOLE-KONA INT'L AIRPORT ROAD "P", HAWAII					
		DESIGN FOR ROAD "P" AS A SECOND ACCESS ROAD INTO THE AIRPORT.					
		DESIGN					130
		TOTAL FUNDING	TRN				130B
42.	C03E	KEAHOLE-KONA INT'L AIRPORT OVERSEAS TERMINAL DEVELOPMENT, HAWAII					
		DESIGN AND CONSTRUCTION FOR A TWO LEVEL OVERSEAS DOMESTIC AND INTERNATIONAL ARRIVAL TERMINAL. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN				2,640	
		CONSTRUCTION					33,000
		TOTAL FUNDING	TRN			2,640B	28,000B
			TRN			N	5,000N
43.	C03F	KEAHOLE-KONA INT'L AIRPORT HELIPORT, PHASE I, HAWAII					
		DESIGN AND CONSTRUCTION FOR A HELIPORT WITH 12 HELIPADS.					
		DESIGN					530
		CONSTRUCTION					4,770

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	TRN		B		5,300B
44.	C03G	KEAHOLE-KONA INT'L AIRPORT GENERAL AVIATION SITE PREPARATION, HAWAII					
		DESIGN AND CONSTRUCTION FOR SITE IMPROVEMENTS (GRADING, UTILITIES, AND ACCESS) FOR AN AVIATION AREA TO BE LEASED TO AIRPORT TENANTS FOR FUTURE DEVELOPMENT.					
		DESIGN				350	
		CONSTRUCTION					6,510
		TOTAL FUNDING	TRN			350B	6,510B
45.	C03H	KEAHOLE-KONA INT'L AIRPORT RAMP "K", HAWAII					
		DESIGN AND CONSTRUCTION FOR PAVING THE AREA IN THE VICINITY OF THE EXISTING HELIPORT AND GENERAL AVIATION AREA.					
		DESIGN				490	
		CONSTRUCTION					1,410
		TOTAL FUNDING	TRN			490B	1,410B
46.	C03I	KEAHOLE-KONA INT'L AIRPORT AIR TRAFFIC CONTROL TOWER, HAWAII					
		DESIGN AND CONSTRUCTION FOR AN AIR TRAFFIC CONTROL TOWER AT THE AIRPORT.					
		DESIGN				700	
		CONSTRUCTION					7,212
		TOTAL FUNDING	TRN			700B	7,212B
47.	C03J	KEAHOLE-KONA INT'L AIRPORT POSTAL FACILITY SITE DEVELOPMENT, HAWAII					
		DESIGN AND CONSTRUCTION FOR SITE IMPROVEMENTS (GRADING, UTILITIES, AND ACCESS) FOR A NEW U.S. POSTAL SERVICE OFFICE FACILITY.					
		DESIGN				165	
		CONSTRUCTION				1,485	
		TOTAL FUNDING	TRN			1,650B	B
48.	C03K	KEAHOLE-KONA INT'L AIRPORT WASTEWATER TREATMENT PLANT, HAWAII					
		CONSTRUCTION FOR A NEW SEWAGE TREATMENT PLANT AT THE AIRPORT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION				16,280	
		TOTAL FUNDING	TRN			12,280B	B
			TRN			4,000N	N
49.	C03L	KEAHOLE-KONA INT'L AIRPORT GENERAL AVIATION FUEL STORAGE SYSTEM, HAWAII					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN AND CONSTRUCTION FOR SITE IMPROVEMENTS NEEDED TO PROVIDE A FUEL STORAGE SYSTEM FOR GENERAL AVIATION.					
					186		
					1,674		
		TOTAL FUNDING	TRN		1,860B		B
50.	C03M	KEAHOLE-KONA INT'L AIRPORT FUEL FARM SITE PREPARATION, HAWAII					
		DESIGN AND CONSTRUCTION FOR SITE IMPROVEMENTS NEEDED TO PROVIDE A FUEL FARM AT THE AIRPORT.					
					193		
					1,737		
		TOTAL FUNDING	TRN		1,930B		B
51.	C03N	KEAHOLE-KONA INT'L AIRPORT AIR MONITORING SYSTEM, HAWAII					
		DESIGN AND CONSTRUCTION FOR AN AIR QUALITY TESTING SYSTEM NEEDED TO MEET STATE AND FEDERAL CLEAN AIR STANDARDS AND REQUIREMENTS.					
							10
							90
		TOTAL FUNDING	TRN			B	100B
52.	C03O	KEAHOLE-KONA INT'L AIRPORT OVERSEAS AIRCRAFT PARKING APRON, HAWAII					
		DESIGN AND CONSTRUCTION FOR AN APRON TO BE USED FOR OVERSEAS AIRCRAFT PARKING AT THE NEW OVERSEAS TERMINAL.					
							640
							5,760
		TOTAL FUNDING	TRN			B	6,400B
<b>TRN131 - KAHULUI AIRPORT</b>							
54.	D04A	KAHULUI AIRPORT TERMINAL DEVELOPMENT, MAUI					
		DESIGN FOR ADDITIONAL TICKETING LOBBY, CONCESSION, AND PARKING FACILITIES.					
							2,336
		TOTAL FUNDING	TRN			B	2,336B
55.	D04B	KAHULUI AIRPORT SIGNAGE AND GRAPHICS IMPROVEMENTS, MAUI					
		DESIGN AND CONSTRUCTION FOR EXTERNAL SIGNAGE TO IMPROVE ACCESS INTO AND WITHIN THE AIRPORT.					
							31
							279
		TOTAL FUNDING	TRN			B	310B
56.	D08A	KAHULUI AIRPORT RENTAL CAR FACILITY MODIFICATIONS, PHASE I, MAUI					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN AND CONSTRUCTION FOR SITE WORK (GRADING, UTILITIES, AND ACCESS) FOR THE RENTAL CAR FACILITY RELOCATION.					
						580	
						5,220	
			TOTAL FUNDING	TRN		5,800B	B
57.	D08B	KAHULUI AIRPORT KEOLANI PLACE LEASE LOT, MAUI					
		DESIGN AND CONSTRUCTION FOR SITE WORK (GRADING, UTILITIES, AND ACCESS) AS WELL AS SUBDIVIDING FOR LEASE LOTS.					
						185	
							1,665
			TOTAL FUNDING	TRN		185B	1,665B
58.	D08C	KAHULUI AIRPORT NON-POTABLE WATER SYSTEM, MAUI					
		DESIGN FOR A NON-POTABLE WATER SYSTEM AT KAHULUI AIRPORT.					
							422
			TOTAL FUNDING	TRN		B	422B
59.	D08D	KAHULUI AIRPORT RELOCATE HOLD CARGO BUILDING, MAUI					
		CONSTRUCTION TO RELOCATE THE EXISTING CARGO BUILDING.					
						5,585	2,000
			TOTAL FUNDING	TRN		5,585B	2,000B
60.	D08E	KAHULUI AIRPORT AVIATION CARGO APRON, TAXIWAY AND BUILDING, MAUI					
		DESIGN FOR AN AVIATION FACILITY. PROJECT WILL PROVIDE ADDITIONAL CARGO AIRCRAFT PARKING WITH TAXIWAY CONNECTION, A GENERAL CARGO BUILDING, AND NECESSARY ACCESS AND UTILITIES.					
							1,342
			TOTAL FUNDING	TRN		B	1,342B
61.	D08F	KAHULUI AIRPORT AIRLINE GROUND SUPPORT FACILITY RELOCATION, MAUI					
		DESIGN TO RELOCATE THE EXISTING AIRLINE GROUND SUPPORT FACILITY.					
							575
			TOTAL FUNDING	TRN		B	575B
61A.	D08H	KAHULUI AIRPORT EAST RAMP SEWER SYSTEM, MAUI					
		CONSTRUCTION FOR THE UPGRADE OF THE SEWER SYSTEM LOCATED AT THE EAST RAMP OF THE KAHULUI AIRPORT. PROJECT TO INCLUDE CONNECTION TO THE COUNTY SEWAGE SYSTEM AND OTHER RELATED IMPROVEMENTS.					
							2,850
			TOTAL FUNDING	TRN		B	2,850B

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
61B.	D08I	KAHULUI AIRPORT MECHANIC SHOP EXTENSION, MAUI					
		DESIGN AND CONSTRUCTION FOR THE EXPANSION OF THE EXISTING MECHANIC SHOP AT KAHULUI AIRPORT AND OTHER RELATED IMPROVEMENTS.					
		DESIGN					12
		CONSTRUCTION					130
		TOTAL FUNDING	TRN		B		142B
61C.	D08J	KAHULUI AIRPORT FUEL STORAGE SITE DEVELOPMENT, MAUI					
		CONSTRUCTION FOR THE DEVELOPMENT OF AN AREA TO ACCOMMODATE A FUEL STORAGE TANK FARM. SITE WORK TO INCLUDE EXCAVATION, CLEARING AND GRUBBING, ACCESS ROAD AND UTILITIES, AND OTHER RELATED IMPROVEMENTS.					
		CONSTRUCTION					510
		TOTAL FUNDING	TRN		B		510B
<b>TRN133 - HANA AIRPORT</b>							
63.	D20A	HANA AIRPORT PRECISION APPROACH PATH INDICATOR SYSTEM, MAUI					
		DESIGN AND CONSTRUCTION FOR A PRECISION APPROACH PATH INDICATOR (PAPI) SYSTEM AT THE AIRPORT.					
		DESIGN				25	
		CONSTRUCTION				225	
		TOTAL FUNDING	TRN			250B	B
<b>TRN135 - KAPALUA AIRPORT</b>							
63A.		PRECISION AIRPORT PATH INDICATOR SYSTEM FOR KAPALUA WEST MAUI AIRPORT, MAUI					
		DESIGN AND CONSTRUCTION TO PROVIDE FOR A PRECISION APPROACH PATH INDICATOR (PAPI) SYSTEM AT THE KAPALUA AIRPORT AND OTHER RELATED IMPROVEMENTS.					
		DESIGN					25
		CONSTRUCTION					225
		TOTAL FUNDING	TRN		B		250B
<b>TRN141 - MOLOKAI AIRPORT</b>							
64.	D55A	MOLOKAI AIRPORT ACCESS ROAD AND PARKING IMPROVEMENTS, MOLOKAI					
		DESIGN AND CONSTRUCTION FOR ACCESS ROAD AND PARKING LOT IMPROVEMENTS AT THE AIRPORT.					
		DESIGN				130	
		CONSTRUCTION				1,170	
		TOTAL FUNDING	TRN			1,300B	B
<b>TRN143 - KALAUPAPA AIRPORT</b>							

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
64A.	0004	KALAUPAPA AIRPORT PERIMETER FENCE, MOLOKAI					
		DESIGN AND CONSTRUCTION TO PROVIDE FOR A PERIMETER FENCE AROUND THE AIRFIELD AT KALAUPAPA AIRPORT AND OTHER RELATED IMPROVEMENTS.					
		DESIGN					50
		CONSTRUCTION					450
		TOTAL FUNDING	TRN		B		500B
<b>TRN151 - LANAI AIRPORT</b>							
65.	D70A	LANAI AIRPORT PERIMETER FENCE, LANAI					
		DESIGN AND CONSTRUCTION FOR A SECURITY FENCE AROUND THE AIRPORT.					
		DESIGN					66
		CONSTRUCTION					594
		TOTAL FUNDING	TRN		B		660B
<b>TRN161 - LIHUE AIRPORT</b>							
66.	E03A	LIHUE AIRPORT RUNWAY 17-35 EXTENSION, KAUAI					
		DESIGN AND CONSTRUCTION TO EXTEND RUNWAY 17-35 TO 8,500 FEET. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			1,000		
		CONSTRUCTION					29,000
		TOTAL FUNDING	TRN		1,000B		20,000B
			TRN		N		9,000N
67.	E03B	LIHUE AIRPORT AIR TRAFFIC CONTROL TOWER, KAUAI					
		DESIGN AND CONSTRUCTION FOR AN AIR TRAFFIC CONTROL TOWER AT THE AIRPORT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			700		100
		CONSTRUCTION					9,600
		TOTAL FUNDING	TRN		700B		2,230B
			TRN		N		7,470N
68.	E03C	LIHUE AIRPORT POSTAL ACCESS ROAD, KAUAI					
		PLANS, DESIGN, AND CONSTRUCTION FOR A CONNECTOR ROAD TO THE LIHUE POST OFFICE SERVICE ROAD.					
		PLANS			140		
		DESIGN			126		
		CONSTRUCTION			1,134		
		TOTAL FUNDING	TRN		1,400B		
							B
69.	E03D	LIHUE AIRPORT ADDITIONAL CARGO BUILDING, KAUAI					
		DESIGN FOR A NEW CARGO BUILDING ADJACENT TO THE COMMUTER TERMINAL.					



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN					350
		TOTAL FUNDING	TRN		B		350B
70.	E03E	LIHUE AIRPORT APRON SITE PREPARATION AND ROAD REALIGNMENT, KAUAI					
		CONSTRUCTION FOR A GENERAL AVIATION SUBDIVISION AT THE AIRPORT. PROJECT INCLUDES REALIGNING AHUKINI ROAD, DEVELOPMENT OF A LEASE LOT SUBDIVISION, AND THE UPGRADING OF UTILITIES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION		11,850			
		TOTAL FUNDING	TRN	4,950B			B
			TRN	6,900N			N
71.	E03F	LIHUE AIRPORT HELIPORT IMPROVEMENTS, KAUAI					
		CONSTRUCTION FOR A HELIPORT AT THE AIRPORT. PROJECT WILL CONSTRUCT HELIPORT HANGARS AND ADDITIONAL OFFICE SPACE.					
		CONSTRUCTION		2,500			
		TOTAL FUNDING	TRN	2,500B			B
72.	E03G	LIHUE AIRPORT GENERAL AVIATION APRON, KAUAI					
		DESIGN FOR A GENERAL AVIATION APRON AT THE AIRPORT.					
		DESIGN					550
		TOTAL FUNDING	TRN		B		550B
72A.	E03H	LIHUE AIRPORT MAINTENANCE BASEYARD IMPROVEMENTS, KAUAI					
		DESIGN AND CONSTRUCTION FOR A THREE BAY FACILITY AT THE MAINTENANCE BASEYARD.					
		DESIGN					127
		CONSTRUCTION					525
		TOTAL FUNDING	TRN		B		652B
<b>TRN195 - AIRPORTS ADMINISTRATION</b>							
73.	F04A	HILO INTERNATIONAL AIRPORT MASTER PLAN AND NCP UPDATE, HAWAII					
		PLANS FOR A MASTER PLAN AND NOISE COMPATIBILITY PROGRAM UPDATE FOR HILO INTERNATIONAL AIRPORT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS		500			
		TOTAL FUNDING	TRN	185B			B
			TRN	315N			N
74.	F04B	KAHULUI AIRPORT MASTER PLAN UPDATE, MAUI					
		PLANS TO UPDATE THE EXISTING MASTER PLAN AT KAHULUI AIRPORT.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS				300	
		TOTAL FUNDING	TRN			300B	B
75.	F04C	LANAI AIRPORT MASTER PLAN AND NOISE COMPATIBILITY PROGRAM UPDATE, LANAI					
		PLANS TO UPDATE THE EXISTING MASTER PLAN AND NOISE COMPATIBILITY PROGRAM AT LANAI AIRPORT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS				350	
		TOTAL FUNDING	TRN			100B	B
			TRN			250N	N
76.	F04E	HONOLULU INT'L AIRPORT MASTER PLAN AND NCP UPDATE, OAHU					
		PLANS TO UPDATE THE MASTER PLAN AND THE NOISE COMPATIBILITY PROGRAM. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS					400
		TOTAL FUNDING	TRN			B	100B
			TRN			N	300N
77.	F04F	HONOLULU INT'L AIRPORT ENVIRONMENTAL IMPACT STATEMENT UPDATE, OAHU					
		PLANS FOR AN UPDATE OF THE EXISTING ENVIRONMENTAL IMPACT STATEMENT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS					300
		TOTAL FUNDING	TRN			B	75B
			TRN			N	225N
78.	F04J	STATEWIDE AIRPORT PLANNING STUDIES, STATEWIDE					
		PLANS FOR AIRPORT IMPROVEMENTS, ECONOMIC STUDIES RESEARCH AND ADVANCE PLANNING OF FEDERAL AID AND NON-FEDERAL AID PROJECTS.					
		PLANS				1,000	1,000
		TOTAL FUNDING	TRN			1,000B	1,000B
79.	F06B	LIHUE AIRPORT LAND ACQUISITION, KAUAI					
		LAND ACQUISITION OF A TRIANGULAR 47.9 ACRE PARCEL BETWEEN RUNWAYS 17-35 AND 3-21.					
		LAND				1,500	
		TOTAL FUNDING	TRN			1,500B	B
80.	F06D	MOLOKAI AIRPORT LAND ACQUISITION, MOLOKAI					
		LAND ACQUISITION FOR A LAND SWAP AND LEASE BUY-OUT OF HAWAIIAN HOMES LANDS IN CLOSE PROXIMITY OF THE AIRPORT.					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		LAND					1,000
		TOTAL FUNDING	TRN		B		1,000B
80A.	F06E	LIHUE AIRPORT LAND ACQUISITION, STATEWIDE					
		LAND ACQUISITION OF A 55 ACRE PARCEL ABOVE AHUKINI ROAD.					
		LAND					5,500
		TOTAL FUNDING	TRN		B		5,500B
81.	F08A	AIRPORT TENANT IMPROVEMENT GUIDELINES, STATEWIDE					
		DESIGN FOR COMPILING A STANDARD FOR TENANT FUNDED IMPROVEMENTS WITHIN THE STATEWIDE AIRPORT SYSTEM.					
		DESIGN					500
		TOTAL FUNDING	TRN		B		500B
82.	F08B	AIRPORT SECURITY IMPROVEMENTS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR ANTICIPATED FAA REQUIRED SECURITY REQUIREMENTS AND IMPROVEMENTS OF VARIOUS AIRPORTS.					
		DESIGN				1,000	1,000
		CONSTRUCTION				9,000	9,000
		TOTAL FUNDING	TRN		10,000B		10,000B
83.	F08C	AIRPORT HYDROCARBON AND HAZARDOUS MATERIALS MANAGEMENT, STATEWIDE					
		DESIGN AND CONSTRUCTION TO COMPLY WITH FEDERAL AND STATE ENVIRONMENTAL REQUIREMENTS RELATING TO FUEL/OIL AND OTHER ENVIRONMENTAL ISSUES.					
		DESIGN				100	
		CONSTRUCTION				900	
		TOTAL FUNDING	TRN		1,000B		B
84.	F08D	AIRPORT ASBESTOS SURVEY AND ABATEMENT PROGRAM, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR AN ASBESTOS SURVEY AND RESULTING ABATEMENT PROGRAM OF THE STATEWIDE AIRPORT SYSTEM.					
		DESIGN				500	
		CONSTRUCTION				1,500	
		TOTAL FUNDING	TRN		2,000B		B
85.	F08E	AIRPORT FACILITY INVENTORY AND GRAPHICAL INFORMATION SYSTEM, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR A GRAPHICAL INFORMATION SYSTEM (GIS) THAT INCLUDES A DETAILED SURVEY OF THE STATEWIDE AIRPORT SYSTEM.					
		DESIGN				100	
		CONSTRUCTION				900	
		TOTAL FUNDING	TRN		1,000B		B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
86.	F08F	AIRPORTS DIVISION CAPITAL IMPROVEMENT PROGRAM PROJECTS STAFF COSTS, STATEWIDE					
		PLANS, DESIGN, AND CONSTRUCTION FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR THE DEPARTMENT OF TRANSPORTATION'S AIRPORTS DIVISION. PROJECT MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENT PROGRAM PROJECTS RELATED POSITIONS.					
		PLANS			350		350
		DESIGN			700		700
		CONSTRUCTION			700		700
		TOTAL FUNDING	TRN		1,750B		1,750B
87.	F08G	MISCELLANEOUS AIRPORT PROJECTS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR VARIOUS PROJECTS NECESSARY TO COMPLY WITH NEW FAA REGULATIONS, UNANTICIPATED PROJECTS NEEDED FOR SAFETY AND SECURITY, AND OTHER REQUIREMENTS.					
		DESIGN			250		250
		CONSTRUCTION			2,250		2,250
		TOTAL FUNDING	TRN		2,500B		2,500B
88.	F04I	HONOLULU INT'L AIRPORT CONCESSION STUDY AND GUIDELINES, OAHU					
		PLANS FOR A CONCESSION STUDY TO MAXIMIZE REVENUES AS WELL AS PROVIDING DETAILS ON IMPROVING CONCESSION OPERATIONS, SITE SELECTION, AND APPEARANCE.					
		PLANS			150		
		TOTAL FUNDING	TRN		150B		B
88A.	F08I	WORKS OF ART AT AIRPORTS, STATEWIDE					
		CONSTRUCTION FOR WORKS OF ART ASSESSMENTS TO THE STATE FOUNDATION ON CULTURE AND THE ARTS IN ORDER TO COMPLY WITH SECTION 103-8.5, HRS. ALL WORKS OF ART FUNDED BY THIS APPROPRIATION SHALL BE PLACED ONLY AT STATE AIRPORTS, OR AT LOCATIONS SPECIFIED BY THE DEPARTMENT OF TRANSPORTATION.					
		CONSTRUCTION					1,071
		TOTAL FUNDING	TRN		B		1,071B
88B.	F08J	MULTI-CULTURAL ENHANCEMENTS TO AIRPORT TERMINALS, STATEWIDE					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		CONSTRUCTION FOR FACILITIES TO REFLECT HAWAII'S MULTI-CULTURAL ENVIRONMENT INCLUDING IMPLEMENTATION OF PROJECTS IDENTIFIED BY THE HAWAII AIRPORT CULTURAL DEVELOPMENT COMMITTEE AND OTHER RELATED IMPROVEMENTS TO VARIOUS AIRPORT TERMINALS, STATEWIDE.					
		CONSTRUCTION					1,500
		TOTAL FUNDING	TRN		B		1,500B
88C.	F08K	SIGNAGE IMPROVEMENTS, STATEWIDE					
		DESIGN AND CONSTRUCTION OF SIGNAGE AND GRAPHICS IMPROVEMENTS AT HILO INTERNATIONAL, KONA INTERNATIONAL AT KEAHOLE, KAHULUI, AND LIHUE AIRPORT.					
		DESIGN					500
		CONSTRUCTION					4,950
		TOTAL FUNDING	TRN		B		5,450B
88D.		LAND ACQUISITION, STATEWIDE					
		LAND ACQUISITION FOR AIRPORT FACILITIES AND LEASE RIGHTS FOR STATEWIDE AIRPORTS AND OTHER RELATED COSTS.					
		LAND					70
		TOTAL FUNDING	TRN		B		70B
88E.		LAND ACQUISITION, UALENA STREET INDUSTRIAL LOTS (PHASE I), HIA, OAHU					
		LAND ACQUISITION FOR HONOLULU INTERNATIONAL AIRPORT, UALENA STREET INDUSTRIAL LOTS LEASE RIGHTS AND OTHER RELATED COSTS.					
		LAND					1,460
		TOTAL FUNDING	TRN		B		1,460B
<b>TRN301 - HONOLULU HARBOR</b>							
89.	J06	SAND ISLAND CONTAINER YARD IMPROVEMENTS, OAHU					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO CONTAINER YARD INCLUDING RECONSTRUCTION OF PAVING, LIGHTING, AND OTHER IMPROVEMENTS.					
		DESIGN				1,500	
		CONSTRUCTION					7,000
		TOTAL FUNDING	TRN		1,500B		B
			TRN		E		7,000E
90.	J02	IMPROVEMENTS TO FACILITIES AT HONOLULU HARBOR, PIERS 19-36, OAHU					
		LAND ACQUISITION FOR PIERS 19-36 TO ACCOMMODATE THE EXPANSION OF MARITIME ACTIVITIES AT HONOLULU HARBOR.					
		LAND				8,500	
		TOTAL FUNDING	TRN		8,500B		B

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
90A.	J04	IMPROVEMENTS TO FACILITIES AT PIERS 19-29, HONOLULU HARBOR, OAHU					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO YARD AREAS INCLUDING DEMOLITION OF SHED AND TANK STRUCTURES, UTILITIES, AND OTHER IMPROVEMENTS.					
		DESIGN					350
		CONSTRUCTION					2,200
		TOTAL FUNDING	TRN		B		2,550B
90B.	J08	PIER 15 IMPROVEMENTS, HONOLULU HARBOR, OAHU					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS INCLUDING PIER CONSTRUCTION, UTILITIES, AND OTHER IMPROVEMENTS.					
		DESIGN					250
		CONSTRUCTION					1,500
		TOTAL FUNDING	TRN		B		1,750B
90C.	J34	PIERS 36-38 COMMERCIAL FISHING VILLAGE, HONOLULU HARBOR, OAHU					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS INCLUDING COMMERCIAL FISHING VILLAGE, SUBDIVISION, ROADWAYS, UTILITIES, MULTI-USER STRUCTURES, PIER/LOADING DOCK, AND OTHER RELATED IMPROVEMENTS.					
		DESIGN					300
		CONSTRUCTION					9,300
		TOTAL FUNDING	TRN		B		9,600B
90D.	J35	KEEHI INDUSTRIAL PARK ASSOCIATION IMPROVEMENTS, HONOLULU HARBOR, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS INCLUDING MASTER PLANNING, GRADING, DRAINAGE, UTILITY, SECURITY, AND OTHER IMPROVEMENTS.					
		PLANS					250
		DESIGN					100
		CONSTRUCTION					650
		TOTAL FUNDING	TRN		B		1,000B
<b>TRN303 - BARBERS POINT HARBOR</b>							
91.	J10	BARBERS POINT HARBOR DEEPENING, OAHU					
		PLANS FOR DEEPENING OF TURNING BASIN AND CHANNEL MODIFICATIONS AT BARBERS POINT HARBOR. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS					300
		TOTAL FUNDING	TRN				300B
92.	J11	BARBERS POINT HARBOR IMPROVEMENTS, OAHU					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		CONSTRUCTION OF NEW BERTHING FACILITIES INCLUDING A PETROLEUM VESSEL PIER, AN EXTENSION TO PIER P-5, AND OTHER IMPROVEMENTS.					
		CONSTRUCTION		11,000			
		TOTAL FUNDING	TRN	11,000E			E
93.	J13	BARBERS POINT HARBOR PIER IMPROVEMENTS, OAHU					
		DESIGN OF PIER P-7 AND OTHER IMPROVEMENTS.					
		DESIGN		800			
		TOTAL FUNDING	TRN	800B			B
94.	J14	BARBERS POINT HARBOR NAVIGATIONAL IMPROVEMENTS, OAHU					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS INCLUDING NAVIGATIONAL LIGHTS, A CONTROL TOWER, AND OTHER IMPROVEMENTS.					
		DESIGN		200			
		CONSTRUCTION		1,000		650	
		TOTAL FUNDING	TRN	200B		650B	
			TRN	1,000E			E
94A.	J15	BARBERS POINT HARBOR UTILITY AND ROADWAY IMPROVEMENTS, OAHU					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS INCLUDING UTILITIES, LIGHTING, ACCESS ROADWAYS, AND OTHER RELATED IMPROVEMENTS.					
		DESIGN				200	
		CONSTRUCTION				1,400	
		TOTAL FUNDING	TRN		B	1,600B	
94B.		BARBER'S POINT HARBOR, IMPROVEMENTS, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR ACCELERATION OF THE EXPANSION OF THE HARBOR TO FACILITATE THE NEEDS OF THE MARITIME COMMUNITY.					
		PLANS				1	
		DESIGN				1	
		CONSTRUCTION				9,998	
		TOTAL FUNDING	TRN		E	10,000E	
<b>TRN305 - KEWALO BASIN</b>							
95.	J12	KEWALO BASIN IMPROVEMENTS, OAHU					
		CONSTRUCTION FOR REPLACEMENT OF CATWALKS, UTILITIES, AND OTHER IMPROVEMENTS.					
		CONSTRUCTION		1,400			
		TOTAL FUNDING	TRN	1,400B			B
<b>TRN311 - HILO HARBOR</b>							

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
96.	L10	HILO HARBOR IMPROVEMENTS, HAWAII					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS AT HILO HARBOR INCLUDING PIERS, YARDS, SHEDS, UTILITIES, ROADWAYS, AND OTHER IMPROVEMENTS.					
		DESIGN			50		
		CONSTRUCTION			200		1,000
		TOTAL FUNDING	TRN		250B		1,000B
96A.	L02	BARGE TERMINAL IMPROVEMENTS, HILO HARBOR, HAWAII					
		CONSTRUCTION FOR IMPROVEMENTS TO BARGE TERMINAL PIER, SHED, YARD, ROADWAYS, UTILITIES, AND OTHER IMPROVEMENTS.					
		CONSTRUCTION					1,200
		TOTAL FUNDING	TRN			B	1,200B
96B.	L06	HILO HARBOR CONTAINER FACILITY IMPROVEMENTS, HAWAII					
		DESIGN FOR HARBOR IMPROVEMENTS INCLUDING MODIFICATIONS TO PIERS, YARDS, SHEDS, UTILITIES, AND OTHER IMPROVEMENTS.					
		DESIGN					400
		TOTAL FUNDING	TRN			B	400B
<b>TRN313 - KAWAIHAE HARBOR</b>							
96C.	L05	BARGE TERMINAL IMPROVEMENTS, KAWAIHAE HARBOR, HAWAII					
		CONSTRUCTION FOR IMPROVEMENTS TO BARGE TERMINAL PIER, SHED, YARD, ROADWAYS, UTILITIES, AND OTHER IMPROVEMENTS.					
		CONSTRUCTION					3,000
		TOTAL FUNDING	TRN			B	3,000B
<b>TRN331 - KAHULUI HARBOR</b>							
97.	M06	KAHULUI HARBOR PIER IMPROVEMENTS, MAUI					
		DESIGN AND CONSTRUCTION FOR PIER STRENGTHENING, YARD, AND OTHER IMPROVEMENTS.					
		DESIGN			600		
		CONSTRUCTION					5,000
		TOTAL FUNDING	TRN		600B		5,000B
			TRN			E	5,000E
98.	M09	KAHULUI HARBOR BARGE TERMINAL IMPROVEMENTS, MAUI					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO THE BARGE TERMINAL INCLUDING PIERS, YARDS, SHEDS, AND OTHER IMPROVEMENTS.					
		DESIGN			400		
		CONSTRUCTION			4,000		
		TOTAL FUNDING	TRN		400B		B
			TRN		4,000E		E



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
<b>TRN395 - HARBORS ADMINISTRATION</b>							
100.	I00	HARBORS DIVISION CAPITAL IMPROVEMENT PROGRAM PROJECTS STAFF COSTS, STATEWIDE					
		PLANS, DESIGN, AND CONSTRUCTION FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR THE DEPARTMENT OF TRANSPORTATION'S HARBORS DIVISION. PROJECT MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENT PROGRAM PROJECTS RELATED POSITIONS.					
		PLANS		798		798	
		DESIGN		1		1	
		CONSTRUCTION		1		1	
		TOTAL FUNDING	TRN	800B		800B	
101.	I01	HARBOR PLANNING, STATEWIDE					
		PLANS FOR CONTINUING HARBOR STUDIES, RESEARCH, AND ADVANCE PLANNING OF HARBOR AND TERMINAL FACILITIES ON ALL ISLANDS.					
		PLANS		250		250	
		TOTAL FUNDING	TRN	250B		250B	
102.	I03	MISCELLANEOUS IMPROVEMENTS TO FACILITIES AT NEIGHBOR ISLAND PORTS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO YARD AREAS, SHEDS, PIERS, UTILITIES, WATER AREAS, AND OTHER FACILITIES.					
		DESIGN		75		75	
		CONSTRUCTION		200		200	
		TOTAL FUNDING	TRN	275B		275B	
103.	I05	MISCELLANEOUS IMPROVEMENTS TO FACILITIES AT OAHU PORTS, OAHU					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO YARD AREAS, SHEDS, PIERS, UTILITIES, WATER AREAS, AND OTHER FACILITIES.					
		DESIGN		50		50	
		CONSTRUCTION		150		150	
		TOTAL FUNDING	TRN	200B		200B	
104.	I06	PASSENGER TERMINAL FACILITIES, STATEWIDE					
		PLANS, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS TO CRUISE PASSENGER TERMINAL FACILITIES.					
		PLANS		500			
		DESIGN				1,000	
		CONSTRUCTION				300	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	TRN		500B		1,300B
105.	I07	REMEDIATION OF PETROLEUM, OIL AND LUBRICANTS CONTAMINATION, STATEWIDE					
		PLANS AND DESIGN FOR REMEDIATION OF PETROLEUM CONTAMINATED UNDERGROUND AREAS AT VARIOUS STATE HARBORS.					
		PLANS			400		
		DESIGN			200		
		TOTAL FUNDING	TRN		600B		B
<b>TRN501 - OAHU HIGHWAYS</b>							
106.	S11	HAUULA BASEYARD IMPROVEMENTS, OAHU					
		CONSTRUCTION FOR A NEW BASEYARD FACILITY.					
		CONSTRUCTION			550		
		TOTAL FUNDING	TRN		550E		E
107.	X92	OAHU DISTRICT WAREHOUSE BUILDING, OAHU					
		CONSTRUCTION FOR A WAREHOUSE BUILDING AT THE OAHU DISTRICT BASEYARD AND FOR THE RENOVATION OF AN EXISTING WAREHOUSE FOR A HEAVY EQUIPMENT REPAIR SHOP.					
		CONSTRUCTION			1,230		
		TOTAL FUNDING	TRN		1,230E		E
108.	S131	KALAELOA BOULEVARD TRUCK WEIGHING STATION, OAHU					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR A ROADWAY, INSPECTION AREA, WEIGH STATION PAD, AND A WEIGHT HOUSE. PROJECT TO INCLUDE FURNISHING AND INSTALLATION OF A WEIGHT SCALE, COMPUTER EQUIPMENT, SIGNALS, SIGNS, AND OTHER APPURTENANCES.					
		LAND			1		
		DESIGN			95		
		CONSTRUCTION			2,144		
		TOTAL FUNDING	TRN		2,240E		E
109.	S220	KALANIANAOLE HIGHWAY ROADSIDE BARRIER FROM HANAUMA BAY TO SANDY BEACH, OAHU					
		CONSTRUCTION FOR INSTALLING ROADSIDE BARRIERS AND PAVED SHOULDERS FROM HANAUMA BAY TO SANDY BEACH.					
		CONSTRUCTION			1,810		
		TOTAL FUNDING	TRN		1,810E		E
110.	S221	KALANIANAOLE HIGHWAY, INOAOLE STREAM BRIDGE, WAIMANALO, OAHU					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		LAND ACQUISITION AND CONSTRUCTION FOR THE REPLACEMENT OF THE INOAOLE STREAM BRIDGE WITH A LARGER BRIDGE, INCLUDING IMPROVEMENTS TO THE ROADWAY APPROACHES, DETOUR ROAD, AND UTILITY RELOCATIONS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		LAND CONSTRUCTION		5,280			400
		TOTAL FUNDING	TRN	1,055E			80E
			TRN	4,225N			320N
111.	S222	MALAEKAHANA STREAM BRIDGE, OAHU					
		CONSTRUCTION FOR A NEW BRIDGE AT MALAEKAHANA STREAM ON KAMEHAMEHA HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION		2,650			
		TOTAL FUNDING	TRN	530E			E
			TRN	2,120N			N
112.	S226	FARRINGTON HIGHWAY, PILIOKOE BRIDGE TO ALA HEMA STREET, OAHU					
		DESIGN AND CONSTRUCTION FOR INSTALLING HIGHWAY LIGHTING ALONG FARRINGTON HIGHWAY.					
		DESIGN		25			
		CONSTRUCTION		1,075			
		TOTAL FUNDING	TRN	1,100E			E
113.	S239	TRAFFIC MANAGEMENT SYSTEM, INTERSTATE H-1, H-2 AND KALANIANA'OLE HIGHWAY, OAHU					
		CONSTRUCTION OF A TRAFFIC MANAGEMENT SYSTEM WHICH INCLUDES THE INSTALLATION OF VARIABLE & CHANGEABLE MESSAGE SIGNS, LOOP DETECTORS, EMERGENCY TELEPHONES, TRAFFIC SIGNAL SYSTEMS, FIBER-OPTIC CABLES, CAMERAS (CCTV), TRAFFIC CONTROL CENTER, AND PROCUREMENT OF COMPUTER HARDWARE AND SOFTWARE. THIS PROJECT IS DEEMED NECESSARY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION					4,000
		TOTAL FUNDING	TRN		E		800E
			TRN		N		3,200N
114.	S240	KEAAHALA ROAD WIDENING, OAHU					
		DESIGN AND CONSTRUCTION FOR WIDENING KEAAHALA ROAD FROM TWO LANES TO FOUR LANES FROM POOKELA ROAD TO KAHEKILI HIGHWAY.					
		DESIGN		100			
		CONSTRUCTION					3,050

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)				
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F	
		TOTAL FUNDING	TRN		100E		3,050E	
115.	S243	KAILUA ROAD SHOULDER IMPROVEMENTS FOR BICYCLE ROUTE, OAHU						
		CONSTRUCTION FOR KAILUA ROAD BICYCLE ROUTE FROM KALANIANA'OLE HIGHWAY TO HAMAKUA DRIVE INCLUDING UPGRADING AND PAVING THE SHOULDERS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING.						
		CONSTRUCTION					1,474	
		TOTAL FUNDING	TRN		E		264E	
			TRN		N		1,210N	
116.	S244	ALA MOANA BOULEVARD IMPROVEMENTS, ATKINSON DRIVE TO KALAKAUA AVENUE, OAHU						
		CONSTRUCTION FOR IMPROVEMENTS TO ALA MOANA BOULEVARD. PROJECT INCLUDES LANDSCAPING AND OTHER ROADWAY IMPROVEMENTS ON ALA MOANA BOULEVARD FROM ATKINSON DRIVE TO KALAKAUA AVENUE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING AND/OR REIMBURSEMENT.						
		CONSTRUCTION					8,380	
		TOTAL FUNDING	TRN		E		1,675E	
			TRN		N		6,705N	
117.	S253	INTERSTATE ROUTE H-1, PUNAHOU STREET OFF-RAMP IMPROVEMENTS, OAHU						
		LAND ACQUISITION AND CONSTRUCTION FOR THE WIDENING OF INTERSTATE ROUTE H-1 AT THE PUNAHOU STREET OFF-RAMP. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.						
		LAND			2,500			
		CONSTRUCTION					6,600	
		TOTAL FUNDING	TRN		250E		660E	
			TRN		2,250N		5,940N	
117A.		INTERSTATE ROUTE H-1, PUNAHOU STREET OFF-RAMP NOISE ABATEMENT, OAHU						
		DESIGN AND CONSTRUCTION FOR THE NOISE ABATEMENT RELATED TO THE DEPARTMENT OF TRANSPORTATION PUNAHOU OFF-RAMP EXPANSION PROJECT.						
		DESIGN					1	
		CONSTRUCTION					639	
		TOTAL FUNDING	TRN		E		640E	
118.	S254	KEEHI AND PEARL CITY BASEYARDS SECURITY WALL, OAHU						
		DESIGN AND CONSTRUCTION FOR REPLACING THE EXISTING CHAIN LINK PERIMETER FENCE WITH A CONCRETE TILE WALL.						

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN			45		
		CONSTRUCTION					450
		TOTAL FUNDING	TRN		45E		450E
119.	S255	WINDWARD BASEYARD WATER CONNECTION, OAHU					
		DESIGN AND CONSTRUCTION FOR INSTALLING A PERMANENT WATER CONNECTION TO THE WINDWARD BASEYARD.					
		DESIGN			10		
		CONSTRUCTION			75		
		TOTAL FUNDING	TRN		85E		E
120.	S256	KEEHI BASEYARD WASHRACK AND WATER RECLAMATION TANK, OAHU					
		DESIGN AND CONSTRUCTION FOR INSTALLING A WASHRACK AND WATER RECLAMATION TANK FOR WASHING AND CLEANING STATE VEHICLES.					
		DESIGN			40		
		CONSTRUCTION					250
		TOTAL FUNDING	TRN		40E		250E
121.	S257	CASTLE HILLS ACCESS ROAD DRAINAGE IMPROVEMENTS, OAHU					
		LAND ACQUISITION AND DESIGN FOR STORM RETENTION STRUCTURES, EROSION CONTROL, AND PROPERTY ACQUISITION TO REPAIR STORM DAMAGE AND EROSION.					
		LAND					500
		DESIGN			150		
		TOTAL FUNDING	TRN		150E		500E
122.	S258	FARRINGTON HIGHWAY IMPROVEMENTS, NANAKULI TO MAKAHA, OAHU					
		PLANS AND DESIGN FOR SAFETY AND OPERATIONAL IMPROVEMENTS TO FARRINGTON HIGHWAY INCLUDING SIDEWALKS, SIGNALIZED PEDESTRIAN CROSSWALKS OR BRIDGES, AND CONTINUOUS LEFT TURN LANES.					
		PLANS			1		
		DESIGN			999		
		TOTAL FUNDING	TRN		1,000E		E
123.	S259	INTERSTATE H-1 AND MOANALUA FREEWAYS, GLARE SCREENS AND GUARDRAILS, OAHU					
		DESIGN AND CONSTRUCTION FOR REPLACING GLARE SCREENS ON THE CONCRETE MEDIAN BARRIER AND REPLACING AND/OR INSTALLING GUARDRAILS ON THE H-1 FREEWAY AND MOANALUA FREEWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENTS.					
		DESIGN			90		
		CONSTRUCTION			1,000		
		TOTAL FUNDING	TRN		250E		E

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
			TRN		840N		N
124.	S260	KALANIANAOLE HIGHWAY, ROCKFALL PROTECTION AT MAKAPUU, OAHU					
		DESIGN AND CONSTRUCTION FOR A ROCKFALL PROTECTION AND/OR SCALING BACK THE EXISTING SLOPES ON KALANIANAOLE HIGHWAY IN THE VICINITY OF MAKAPUU.					
		DESIGN			200		
		CONSTRUCTION				2,000	
		TOTAL FUNDING	TRN		200E	2,000E	
125.	S261	KALANIANAOLE HIGHWAY IMPROVEMENTS FOR DISABILITY ACCESS, OAHU					
		DESIGN AND CONSTRUCTION FOR DISABILITY ACCESS ALONG KALANIANAOLE HIGHWAY FROM WEST HIND DRIVE TO KEAHOLE STREET. PROJECT INCLUDES WHEELCHAIR RAMPS, UTILITY RELOCATION, SIGN RELOCATION, AND RECONSTRUCTING SIDEWALKS.					
		DESIGN			70		
		CONSTRUCTION			500		
		TOTAL FUNDING	TRN		570E		E
126.	S262	KAMEHAMEHA HIGHWAY LANDSCAPE BEAUTIFICATION AND IMPROVEMENTS, OAHU					
		DESIGN AND CONSTRUCTION FOR LANDSCAPE BEAUTIFICATION AND IMPROVEMENTS ON KAMEHAMEHA HIGHWAY IN THE VICINITY OF THE ARIZONA MEMORIAL.					
		DESIGN			40		
		CONSTRUCTION			300		
		TOTAL FUNDING	TRN		340E		E
127.	S263	WAIALAE AVENUE LANDSCAPE BEAUTIFICATION AND IMPROVEMENTS, OAHU					
		DESIGN AND CONSTRUCTION FOR LANDSCAPE BEAUTIFICATION AND IMPROVEMENTS ON WAIALAE AVENUE IN THE VICINITY OF THE KAHALA MALL SHOPPING CENTER.					
		DESIGN			50		
		CONSTRUCTION			310		
		TOTAL FUNDING	TRN		360E		E
128.	S264	WAKANAKA STREET, INSTALLATION OF HIGHWAY LIGHTS, OAHU					
		DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF HIGHWAY LIGHTING ON WAKANAKA STREET.					
		DESIGN			35		
		CONSTRUCTION				210	
		TOTAL FUNDING	TRN		35E	210E	
129.	S265	MOKAPU SADDLE ROAD, INSTALLATION OF HIGHWAY LIGHTS, OAHU					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF HIGHWAY LIGHTS ON MOKAPU SADDLE ROAD FROM H-3 FREEWAY TO ONEAWA STREET.					
		DESIGN			35		
		CONSTRUCTION				425	
		TOTAL FUNDING	TRN		35E	425E	
130.	S266	GUARDRAIL AND SHOULDER IMPROVEMENTS, VARIOUS LOCATIONS, OAHU					
		DESIGN AND CONSTRUCTION FOR INSTALLING AND/OR UPGRADING THE EXISTING GUARDRAILS INCLUDING END TERMINALS AND CRASH ATTENUATORS, RECONSTRUCTING, AND PAVING OF SHOULDERS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			250	250	
		CONSTRUCTION			3,000	3,000	
		TOTAL FUNDING	TRN		650E	650E	
			TRN		2,600N	2,600N	
131.	S267	HIGHWAYS DIVISION LANDSCAPING MANAGING SYSTEM, OAHU					
		PLANS FOR DEVELOPMENT OF A LANDSCAPE MANAGING SYSTEM FOR THE ISLAND OF OAHU, INCLUDING WATER SOURCES FOR IRRIGATION, INTEGRATED VEGETATIVE MANAGEMENT, LANDSCAPE PLANNING, CONSTRUCTION, AND MAINTENANCE.					
		PLANS			300		
		TOTAL FUNDING	TRN		300E		E
132.	S268	KAMEHAMEHA HIGHWAY, REPLACEMENT OF HALAWA STREAM BRIDGE, OAHU					
		DESIGN AND CONSTRUCTION FOR REPLACEMENT OF HALAWA STREAM BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			65		
		CONSTRUCTION				3,780	
		TOTAL FUNDING	TRN		20E	760E	
			TRN		45N	3,020N	
133.	S269	KAMEHAMEHA HIGHWAY, REPLACEMENT OF SOUTH PUNALUU BRIDGE, OAHU					
		DESIGN FOR REPLACEMENT OF SOUTH PUNALUU BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN				600	
		TOTAL FUNDING	TRN		E	125E	
			TRN		N	475N	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
134.	S270	MISCELLANEOUS TRAFFIC OPERATIONAL IMPROVEMENTS, OAHU					
		DESIGN AND CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR IMPROVED TRAFFIC OPERATION INCLUDING ELIMINATING CONSTRICTIONS, CONSTRUCTING TURNING LANES, MODIFYING AND/OR INSTALLING TRAFFIC SIGNALS, AND OTHER IMPROVEMENTS.					
		DESIGN			95		95
		CONSTRUCTION			1,000		1,000
		TOTAL FUNDING	TRN		1,095E		1,095E
135.	SP9101	NORTH/SOUTH ROAD, KAPOLEI PARKWAY TO INTERSTATE ROUTE H-1, OAHU					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR A NEW MULTI-LANE HIGHWAY FROM KAPOLEI PARKWAY TO H-1 FREEWAY. PHASE ONE WILL BE FROM KAPOLEI PARKWAY TO FARRINGTON HIGHWAY AND PHASE TWO WILL BE FROM FARRINGTON HIGHWAY TO H-1 FREEWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		LAND			500		500
		DESIGN			4,000		
		CONSTRUCTION			14,000		
		TOTAL FUNDING	TRN		6,900E		100E
			TRN		11,600N		400N
136.	SP9602	FARRINGTON HIGHWAY, SIDEWALKS BETWEEN PAIWA AND LEOOLE STREETS, OAHU					
		CONSTRUCTION FOR SIDEWALKS ALONG THE MAKAI SIDE OF FARRINGTON HIGHWAY BETWEEN PAIWA (AWANUI) AND LEOOLE STREETS.					
		CONSTRUCTION			3,000		
		TOTAL FUNDING	TRN		3,000E		E
137.	SP9606	INTERSTATE ROUTE H-1, LUNALILO STREET OFF-RAMP AND ON-RAMP, OAHU					
		DESIGN AND CONSTRUCTION FOR INTERIM IMPROVEMENTS ON H-1 FREEWAY IN THE WESTBOUND DIRECTION BETWEEN LUNALILO ON-RAMP AND VINEYARD OFF-RAMP.					
		DESIGN			1		
		CONSTRUCTION			1,029		
		TOTAL FUNDING	TRN		1,030E		E
138.	P97005	KALAKAUA AVENUE BRIDGE IMPROVEMENTS, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR WIDENING OF THE KALAKAUA AVENUE BRIDGE INCLUDING ADDITIONAL LANES AND SIDEWALKS.					



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS			250		
		DESIGN			250		
		CONSTRUCTION					1,500
		TOTAL FUNDING	TRN		500C		1,500C
139.	P97006	ALA MOANA BOULEVARD SIGNAGE AND CROSSWALKS, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENT OF ADDITIONAL SIGNAGE AND CROSSWALKS ALONG ALA MOANA BOULEVARD.					
		PLANS			10		
		DESIGN			40		
		CONSTRUCTION			400		
		EQUIPMENT			50		
		TOTAL FUNDING	TRN		500E		E
140.	R30	INTERSTATE ROUTE H-3, COAST GUARD ANTENNA REMOVAL, OAHU					
		CONSTRUCTION FOR THE DEMOLITION AND DISPOSAL OF THE COAST GUARD OMEGA STATION ANTENNA PRIOR TO THE OPENING OF THE H-3 FREEWAY TO PUBLIC TRAFFIC AND USAGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION			3,000		
		TOTAL FUNDING	TRN		300E		E
					2,700N		N
141.	S18	KAMEHAMEHA HIGHWAY SAFETY IMPROVEMENTS, KIPAPA GULCH TOWARDS MILILANI, OAHU					
		DESIGN AND CONSTRUCTION FOR PHASE TWO OF SAFETY IMPROVEMENTS ON KAMEHAMEHA HIGHWAY FROM KIPAPA GULCH TOWARDS MILILANI TO CONTROL HILLSIDE EROSION. PROJECT TO INCLUDE ROCKFALL PROTECTION CHAIN LINK NETTING.					
		DESIGN			75		
		CONSTRUCTION			750		
		TOTAL FUNDING	TRN		825E		E
142.	S271	INTERSTATE H-1 AND MOANALUA FREEWAYS IMPROVEMENTS, PUULOA TO KAPIOLANI, OAHU					
		DESIGN AND CONSTRUCTION FOR AN ADDITIONAL LANE OF THE H-1 FREEWAY INBOUND LANES FROM THE VICINITY OF MIDDLE STREET TO THE VICINITY OF VINEYARD BOULEVARD AND OTHER IMPROVEMENTS TO IMPROVE TRAFFIC FLOW. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			300		
		CONSTRUCTION			1,500		
		TOTAL FUNDING	TRN		600E		E
					1,200N		N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
143.	S272	FARRINGTON HIGHWAY IMPROVEMENTS, WAIPAHAU DEPOT ROAD TO ANIANI STREET, OAHU					
		DESIGN FOR THE VERTICAL REALIGNMENT OF FARRINGTON HIGHWAY FROM WAIPAHAU DEPOT ROAD TO ANIANI STREET TO INCLUDE BRIDGE REPLACEMENT, UTILITY RELOCATION, TEST PITS, BORINGS, AND OTHER IMPROVEMENTS.					
		DESIGN					1,000
		TOTAL FUNDING	TRN		E		1,000E
144.	SP9507	KUNIA ROAD WIDENING, SOUTH KUPUNA LOOP TO ANONUI STREET, OAHU					
		CONSTRUCTION FOR THE WIDENING OF KUNIA ROAD INCLUDING MODIFICATION OF LANE USE AND TRAFFIC SIGNALIZATION AT THE KUNIA ROAD/NORTH KUPUNA LOOP AND KUNIA ROAD/SOUTH KUPUNA LOOP INTERSECTIONS; WIDENING OF EXISTING WESTBOUND OFF RAMP FROM H-1 TO NORTHBOUND KUNIA ROAD; AND TRAFFIC SIGNALIZATION AT THE KUNIA ROAD INTERSECTION. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION				1,500	
		TOTAL FUNDING	TRN			700N	
			TRN			800R	R
145.	P97007	MOANALUA ROAD AND H-1 WAIHAU INTERCHANGE, OAHU					
		DESIGN AND CONSTRUCTION FOR INTERSECTION IMPROVEMENTS IN THE VICINITY OF MOANALUA ROAD AND INTERSTATE H-1 WAIHAU INTERCHANGE. PROJECT TO INCLUDE THE INSTALLATION OF TRAFFIC SIGNALIZATION AND OTHER RELATED IMPROVEMENTS.					
		DESIGN				50	
		CONSTRUCTION				250	
		TOTAL FUNDING	TRN			300E	E
146.	P97008	MAUKA HIGHWAY, MAKAHA TO NANAKULI, OAHU					
		PLANS FOR DEVELOPMENT OF A MAUKA HIGHWAY, INCLUDING AN ENVIRONMENTAL IMPACT STATEMENT FOR A MAUKA HIGHWAY AS AN ALTERNATIVE ROUTE TO FARRINGTON HIGHWAY FROM MAKAHA TO NANAKULI.					
		PLANS				1,000	
		TOTAL FUNDING	TRN			1,000E	E
147.	P97009	FARRINGTON HIGHWAY, TRAFFIC SIGNALS, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR INSTALLATION OF TRAFFIC SIGNAL LIGHTS AT TWO INTERSECTIONS: FARRINGTON HIGHWAY AND LAUMANIA STREET; FARRINGTON HIGHWAY AND WAIOMEA AVENUE.					
		DESIGN					99

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ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		CONSTRUCTION			840		
		EQUIPMENT			1		
		TOTAL FUNDING	TRN		940E		E
147A.		KAMEHAMEHA HIGHWAY, TRAFFIC SIGNAL, OAHU					
		DESIGN AND CONSTRUCTION FOR A TRAFFIC LIGHT AT THE INTERSECTION OF KAMEHAMEHA HIGHWAY AND LEILEHUA GOLF COURSE ROAD.					
		DESIGN					1
		CONSTRUCTION					699
		TOTAL FUNDING	TRN			E	700E
148.	P97010	FARRINGTON HIGHWAY, SAFETY IMPROVEMENTS, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT TO INSTALL FLASHING YELLOW LIGHTS ON FARRINGTON HIGHWAY AT TWO LOCATIONS: WAIANAE BOUND, BEFORE LAALOA STREET; HONOLULU BOUND, BEFORE WAIOMEA STREET.					
		DESIGN			4		
		CONSTRUCTION			27		
		EQUIPMENT			1		
		TOTAL FUNDING	TRN		32E		E
149.	P97011	FARRINGTON HIGHWAY, DRAINAGE SYSTEM IMPROVEMENTS, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT TO IMPROVE DRAINAGE SYSTEM ON MAKAI SIDE OF FARRINGTON HIGHWAY FRONTING ULEHAWA BEACH PARK.					
		DESIGN			49		
		CONSTRUCTION			125		
		EQUIPMENT			1		
		TOTAL FUNDING	TRN		175E		E
150.	P97012	FARRINGTON HIGHWAY, DRAINAGE SYSTEM IMPROVEMENTS, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT TO IMPROVE DRAINAGE SYSTEM ON FARRINGTON HIGHWAY BETWEEN MOHIHI STREET AND HALELUA STREET.					
		DESIGN			25		
		CONSTRUCTION			127		
		EQUIPMENT			1		
		TOTAL FUNDING	TRN		153E		E
151.	P97013	FARRINGTON HIGHWAY, DRAINAGE SYSTEM IMPROVEMENTS, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS TO DRAINAGE SYSTEM ON MAUKA AND MAKAI SIDE OF FARRINGTON HIGHWAY FROM NANAKULI RANCH TO THE GTE BUILDING.					
		DESIGN			26		
		CONSTRUCTION			305		
		EQUIPMENT			1		
		TOTAL FUNDING	TRN		332E		E

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
152.	P97014	FORT WEAVER ROAD LANDSCAPING IMPROVEMENTS, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR LANDSCAPING IMPROVEMENTS AND THE INSTALLATION OF AN IRRIGATION SYSTEM FOR FORT WEAVER ROAD.					
			DESIGN		1		
			CONSTRUCTION		798		
			EQUIPMENT		1		
			TOTAL FUNDING	TRN	800E		E
153.	P97015	FARRINGTON HIGHWAY MEDIAL STRIP, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR A MEDIAL STRIP FOR FARRINGTON HIGHWAY FROM KAMEHAMEHA HIGHWAY TO FORT WEAVER ROAD.					
			PLANS		500		
			DESIGN		1,500		
			CONSTRUCTION				5,000
			TOTAL FUNDING	TRN	2,000E		1,000E
				TRN		N	4,000N
154.	P97016	SALT LAKE BOULEVARD IMPROVEMENTS, PHASE III, OAHU					
		DESIGN AND CONSTRUCTION FOR SALT LAKE BOULEVARD IMPROVEMENTS, PHASE III.					
			DESIGN		200		
			CONSTRUCTION		1,800		
			TOTAL FUNDING	TRN	2,000E		E
155.	P97017	FARRINGTON HIGHWAY RETAINING WALL, OAHU					
		DESIGN AND CONSTRUCTION FOR A RETAINING WALL ALONG FARRINGTON HIGHWAY ABOVE THE WAIPAHA HIGH SCHOOL ATHLETIC FIELD.					
			DESIGN		15		
			CONSTRUCTION		350		
			TOTAL FUNDING	TRN	365E		E
156.	P97018	INTERSTATE H-2 MEDIAL STRIP, MILILANI TO WAHIAWA, OAHU					
		DESIGN AND CONSTRUCTION FOR A MEDIAL STRIP FOR INTERSTATE H-2 FROM MILILANI TO WAHIAWA TO PROVIDE ADDITIONAL PROTECTION AND NECESSARY IMPROVEMENTS FOR THE SAFETY OF DRIVING MOTORISTS.					
			DESIGN		50		
			CONSTRUCTION		200		
			TOTAL FUNDING	TRN	250E		E
157.	P97019	FORT WEAVER ROAD AND RENTON ROAD DRAINAGE IMPROVEMENTS, OAHU					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN AND CONSTRUCTION FOR PAVED SHOULDERS, INLET STRUCTURES, AND INSTALLATION OF CULVERTS TO CONNECT INTO EXISTING DRAINAGE SYSTEM TO ALLEVIATE FLOODING CONDITIONS AT THE INTERSECTION OF FORT WEAVER ROAD AND RENTON ROAD.					
		DESIGN			40		
		CONSTRUCTION			300		
		TOTAL FUNDING	TRN		340E		E
158.	P97020	FARRINGTON HIGHWAY AND WAIOMEA STREET INTERSECTION IMPROVEMENTS, OAHU					
		DESIGN AND CONSTRUCTION FOR INTERSECTION IMPROVEMENTS AT FARRINGTON HIGHWAY AND WAIOMEA STREET. PROJECT TO INCLUDE THE INSTALLATION OF TRAFFIC LIGHTS, WARNING LIGHTS, AND OTHER NECESSARY IMPROVEMENTS.					
		DESIGN			50		
		CONSTRUCTION			300		
		TOTAL FUNDING	TRN		350E		E
159.	P97021	KAMEHAMEHA HIGHWAY DRAINAGE IMPROVEMENTS AT KAAAWA, OAHU					
		DESIGN AND CONSTRUCTION FOR PAVED SHOULDERS, INLET STRUCTURES, AND INSTALLATION OF DRAIN INTAKE STRUCTURES ON KAMEHAMEHA HIGHWAY IN KAAAWA TO ALLEVIATE FLOODING CONDITIONS.					
		DESIGN			100		
		CONSTRUCTION			500		
		TOTAL FUNDING	TRN		600E		E
159A.	S273	KAMEHAMEHA HIGHWAY INTERSECTION IMPROVEMENTS AT KUILIMA DRIVE, OAHU					
		PLANS AND DESIGN FOR CONSTRUCTING A LEFT TURN LANE ON KAMEHAMEHA HIGHWAY INTO KUILIMA DRIVE AND OTHER RELATED IMPROVEMENTS.					
		PLANS					50
		DESIGN					300
		TOTAL FUNDING	TRN			E	350E
159B.	S274	KAMEHAMEHA HIGHWAY TRAFFIC IMPROVEMENTS, KAHALUU TO WAIMEA BAY, OAHU					
		PLANS FOR IMPROVING TRAFFIC OPERATIONS AND INCREASING SAFETY ALONG THIS STRETCH OF KAMEHAMEHA HIGHWAY. IMPROVEMENTS TO INCLUDE CONSTRUCTING PASSING AND TURNING LANES, MODIFYING EXISTING TRAFFIC SIGNALS, CONSTRUCTING SIDEWALKS, INSTALLING SIGNS, FLASHERS AND OTHER WARNING DEVICES, AND OTHER IMPROVEMENTS.					
		PLANS					500

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ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	TRN		E		500E
159C.	S275	KALANIANAOLE HIGHWAY IMPROVEMENTS, REALIGN HIGHWAY, MAKAPUU, OAHU					
		PLANS FOR REALIGNING KALANIANAOLE HIGHWAY IN THE VICINITY OF OCEANIC INSTITUTE, MAKAPUU. IMPROVEMENTS TO INCLUDE CONSTRUCTING THE ROADWAY MORE INLAND FROM THE SHORELINE.					
		PLANS					100
		TOTAL FUNDING	TRN		E		100E
159D.	S276	KALANIANAOLE HIGHWAY IMPROVEMENTS, RETAINING WALL AT MAKAPUU, OAHU					
		PLANS FOR CONSTRUCTING AND/OR REPAIRING A RETAINING WALL ALONG KALANIANAOLE HIGHWAY IN THE VICINITY OF MAKAPUU POINT. PROJECT TO INCLUDE SUBSURFACE INVESTIGATION.					
		PLANS					500
		TOTAL FUNDING	TRN		E		500E
159E.	S277	KAMEHAMEHA HIGHWAY SIDEWALK, MILLLANI, OAHU					
		PLANS FOR CONSTRUCTING A SIDEWALK ALONG KAMEHAMEHA HIGHWAY IN THE VICINITY OF MEHEULA PARKWAY TO THE VICINITY OF KUAHELANI AVENUE.					
		PLANS					100
		TOTAL FUNDING	TRN		E		100E
159F.	SP9505	FARRINGTON HIGHWAY IMPROVEMENTS, OAHU					
		CONSTRUCTION FOR STORAGE AND ACCELERATION LANES FOR INGRESS AND EGRESS IN THE VICINITY OF KAHE "TRACKS" BEACH PARK. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION					2,285
		TOTAL FUNDING	TRN		E		475E
			TRN		N		1,810N
159G.		FARRINGTON HIGHWAY AND LEOKU STREET INTERSECTION IMPROVEMENTS, OAHU					
		DESIGN AND CONSTRUCTION FOR A DOUBLE LEFT-TURN HOLDING LANE FROM FARRINGTON HIGHWAY EASTBOUND ONTO LEOKU STREET AND OTHER RELATED IMPROVEMENTS.					
		DESIGN					100
		CONSTRUCTION					750
		TOTAL FUNDING	TRN		E		850E
159H.	S278	INTERSECTION ROUTE H-1 IMPROVEMENTS, MANAGER'S DRIVE BRIDGE WIDENING, OAHU					

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ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		CONSTRUCTION FOR THE WIDENING OF THE EXISTING 36 FT. WIDE BRIDGE OVER THE H-1 FREEWAY, WEST OF THE PAIWA INTERCHANGE, TO A TOTAL WIDTH OF APPROXIMATELY 60 FT. TO MEET CITY/COUNTY STANDARDS AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION					2,000
		TOTAL FUNDING	TRN		N		1,600N
			TRN		R		400R
159I.	S279	KUNIA ROAD, INTERSECTION IMPROVEMENTS IN THE VICINITY OF ROYAL KUNIA, OAHU					
		CONSTRUCTION FOR IMPROVEMENTS APPROXIMATELY 950 FT. NORTH AND 1,100 FT. SOUTH OF ROAD "D" INTERSECTION WITH KUNIA ROAD TO INCLUDE ROAD WIDENING, ROAD CONSTRUCTION, STREET LIGHTS, SIDEWALKS, CURBS, DRAINAGE, AND OTHER RELATED IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENTS.					
		CONSTRUCTION					2,250
		TOTAL FUNDING	TRN		N		1,800N
			TRN		R		450R
159J.	R63	PUULOA ROAD - KAMEHAMEHA HIGHWAY TO SALT LAKE BOULEVARD, OAHU					
		LAND ACQUISITION AND CONSTRUCTION FOR WIDENING THE EXISTING FACILITY FROM KAMEHAMEHA HIGHWAY TO SALT LAKE BOULEVARD. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENTS.					
		LAND					130
		CONSTRUCTION					14,500
		TOTAL FUNDING	TRN		E		2,930E
			TRN		N		11,700N
159K.		FARRINGTON HIGHWAY REALIGNMENT, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION TO REALIGN FARRINGTON HIGHWAY FROM THE VICINITY OF UPENA STREET TO THE NORTHEAST END OF MAKAHA BEACH PARK.					
		PLANS					75
		DESIGN					300
		CONSTRUCTION					3,000
		TOTAL FUNDING	TRN		E		3,375E
159L.		KAMEHAMEHA HIGHWAY-KAHEKILI HIGHWAY INTERSECTION IMPROVEMENTS, OAHU					

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ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS, DESIGN, AND CONSTRUCTION FOR A TRAFFIC CIRCLE AT THE INTERSECTION OF KAMEHAMEHA AND KAHEKILI HIGHWAYS.					
		PLANS					50
		DESIGN					500
		CONSTRUCTION					2,550
		TOTAL FUNDING	TRN		E		3,100E
159M.		MIDDLE LOCH, PARKING LOT AND PIER, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A PARKING LOT AND PIER AT MIDDLE LOCH, PEARL CITY.					
		PLANS					100
		DESIGN					400
		CONSTRUCTION					5,499
		EQUIPMENT					1
		TOTAL FUNDING	TRN		E		1,500E
			TRN		N		4,500N
159N.		LEEWARD COMMUNITY COLLEGE, SECONDARY EXIT, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION TO CONSTRUCT A SECONDARY EXIT FOR LEEWARD COMMUNITY COLLEGE.					
		PLANS					50
		DESIGN					100
		CONSTRUCTION					850
		TOTAL FUNDING	TRN		E		1,000E
159O.		WAIPIO INTERCHANGE EXPANSION, OAHU					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO THE KA UKA BOULEVARD BRIDGE ON INTERSTATE H-2 AND OTHER RELATED IMPROVEMENTS.					
		DESIGN					250
		CONSTRUCTION					6,250
		TOTAL FUNDING	TRN		N		5,200N
			TRN		R		1,300R
159P.		H-2 INTERSTATE, KA UKA BOULEVARD, OAHU					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO EXTEND KA UKA BOULEVARD FROM ITS CURRENT TERMINUS AT THE INTERSTATE H-2 WAIPIO INTERCHANGE ACROSS THE PANAKAUHAI GULCH TO WAIAWA RIDGE AND OTHER RELATED IMPROVEMENTS.					
		DESIGN					500
		CONSTRUCTION					15,800
		TOTAL FUNDING	TRN		N		13,040N
			TRN		R		3,260R
159Q.		CENTRAL MAUKA ARTERIAL ROADWAY, OAHU					
		DESIGN AND CONSTRUCTION FOR THE CENTRAL MAUKA ARTERIAL ROADWAY AND COLLECTOR ROADS ON THE WAIAWA RIDGE; AND RELATED IMPROVEMENTS.					



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN					200
		CONSTRUCTION					38,000
		TOTAL FUNDING	TRN		N		30,560N
			TRN		R		7,640R
159R.		INTERSTATE ROUTE H-1 WIDENING, WAIAWA INTERCHANGE TO HALAWA INTERCHANGE, OAHU					
		DESIGN FOR THE WIDENING OF INTERSTATE H-1 FREEWAY FROM WAIAWA INTERCHANGE TO HALAWA INTERCHANGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN					3,000
		TOTAL FUNDING	TRN		E		600E
			TRN		N		2,400N
<b>TRN511 - HAWAII HIGHWAYS</b>							
160.	T64	KEAAU-PAHOA ROAD, KEAAU TOWN SECTION, HAWAII					
		CONSTRUCTION FOR A NEW ROADWAY AROUND KEAAU TOWN TO REDUCE TRAFFIC CONGESTION WITHIN THE TOWN. (SPECIAL FUNDS FROM DUTY FREE)					
		CONSTRUCTION				13,500	
		TOTAL FUNDING	TRN			13,500B	B
161.	T77	GUARDRAIL AND SHOULDER IMPROVEMENTS ON VARIOUS STATE HIGHWAYS, HAWAII					
		DESIGN AND CONSTRUCTION FOR INSTALLING UPGRADED GUARDRAILS INCLUDING END TERMINALS AND ATTENUATORS, AND RECONSTRUCTING AND PAVING OF SHOULDERS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			215		215
		CONSTRUCTION			2,040		2,040
		TOTAL FUNDING	TRN		455E		455E
			TRN		1,800N		1,800N
162.	T82	QUEEN KAAHUMANU HIGHWAY WIDENING, HAWAII					
		LAND ACQUISITION AND CONSTRUCTION FOR THE WIDENING OF QUEEN KAAHUMANU HIGHWAY FROM PALANI ROAD TOWARDS KAWAIHAE INCLUDING PAVED SHOULDERS FOR A BIKE ROUTE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENTS.					
		LAND					10,300
		CONSTRUCTION					25,200
		TOTAL FUNDING	TRN		E		7,100E
			TRN		N		28,400N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
163.	T110	HAWAII BELT ROAD, ROCKFALL PROTECTION AT VARIOUS SECTIONS, HAWAII					
		LAND ACQUISITION AND CONSTRUCTION OF SLOPE PROTECTION ALONG ROUTE 19, HAWAII BELT ROAD IN THE VICINITY OF MAULUA GULCH, LAUPAHOEHOE GULCH, AND KAWALI'I GULCH. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		LAND				500	
		CONSTRUCTION					3,500
		TOTAL FUNDING	TRN			100E	700E
			TRN			400N	2,800N
164.	T112	REPLACE BRIDGES AT KUPAPAUlua, POPOO, AUWAlAKEAKUA, AND HALAULANI, HAWAII					
		CONSTRUCTION FOR REPLACEMENT OF KUPAPAUlua, POPOO, AUWAlAKEAKUA, AND HALAULANI BRIDGES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION					9,110
		TOTAL FUNDING	TRN			E	1,830E
			TRN			N	7,280N
165.	T116	KAWAIHAE ROAD BYPASS, WAIMEA TO KAWAIHAE, HAWAII					
		PLANS FOR A NEW ROAD FROM WAIMEA TO KAWAIHAE TO INCLUDE PLANNING AND ENVIRONMENTAL STUDIES.					
		PLANS					1,515
		TOTAL FUNDING	TRN			E	1,515E
166.	T117	PUAINAKO STREET IMPROVEMENTS FROM KILAUEA AVE. TO KANOELEHUA AVE., HAWAII					
		DESIGN AND CONSTRUCTION FOR INTERSECTION WIDENING AND TRAFFIC SIGNAL IMPROVEMENTS ON PUAINAKO STREET BETWEEN KILAUEA AVENUE TO KANOELEHUA AVENUE.					
		DESIGN				105	
		CONSTRUCTION					2,030
		TOTAL FUNDING	TRN			105E	2,030E
167.	T118	MISCELLANEOUS TRAFFIC OPERATIONAL IMPROVEMENTS, HAWAII					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR IMPROVED TRAFFIC OPERATIONS INCLUDING ELIMINATING CONSTRICTIONS, MODIFYING AND/OR INSTALLING TRAFFIC SIGNALS, CONSTRUCTING TURNING LANES, ACCELERATION AND/OR DECELERATION LANES, AND OTHER IMPROVEMENTS.					
		LAND				55	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN			105		
		CONSTRUCTION			1,000		
		TOTAL FUNDING	TRN		1,160E		E
168.	T119	HILO AND WAIMEA BASEYARDS WASTEWATER SYSTEMS, HAWAII					
		DESIGN AND CONSTRUCTION TO PROVIDE WASTEWATER IMPROVEMENTS NECESSARY TO MEET DEPARTMENT OF HEALTH'S COMPLIANCE.					
		DESIGN			25		25
		CONSTRUCTION			60		60
		TOTAL FUNDING	TRN		85E		85E
169.	T120	HANDICAPPED ACCESSIBILITY FOR SIDEWALKS ON ROUTES 240 AND 270, HAWAII					
		DESIGN AND CONSTRUCTION TO INSTALL WHEELCHAIR RAMPS AND RECONSTRUCT SIDEWALKS IN HONOKAA, HAWI, AND KAPAAU.					
		DESIGN					50
		CONSTRUCTION					100
		TOTAL FUNDING	TRN			E	150E
170.	T121	FLASHING WARNING LIGHTS AT VARIOUS HIGHWAY LOCATIONS, HAWAII					
		DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF FLASHING WARNING LIGHTS ON ROUTE 11, ROUTE 19, ROUTE 130, AND ROUTE 250.					
		DESIGN					30
		CONSTRUCTION					100
		TOTAL FUNDING	TRN			E	130E
171.	P97022	ROUTE 11 AND OLD VOLCANO HIGHWAY STREET LIGHTS, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE INSTALLATION OF STREET LIGHTS AT THE INTERSECTION OF ROUTE 11 AND OLD VOLCANO HIGHWAY.					
		DESIGN			1		
		CONSTRUCTION			18		
		EQUIPMENT			1		
		TOTAL FUNDING	TRN		20E		E
171A.	T79	HAWAII BELT ROAD, DRAINAGE IMPROVEMENTS, DISTRICT OF KAU, HAWAII					
		CONSTRUCTION FOR DRAINAGE IMPROVEMENTS INCLUDING NEW STRUCTURES AT FORD CROSSING IN THE VICINITY OF PIIKEA STREAM AND AT THE PAUAU STREAM. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENTS.					
		CONSTRUCTION					9,500
		TOTAL FUNDING	TRN			E	2,000E
			TRN			N	7,500N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
171B.		HIGHWAY 130 AND 137, TRAFFIC SIGNALS, HAWAII					
		DESIGN AND CONSTRUCTION FOR A TRAFFIC LIGHT AT THE INTERSECTION OF HIGHWAY 130 AND HIGHWAY 137.					
		DESIGN					50
		CONSTRUCTION					200
		TOTAL FUNDING	TRN		E		250E
171C.		KAWAIHAE ROAD, WAIAKA BRIDGE REPLACEMENT AND REALIGNMENT, HAWAII					
		PLANS FOR REPLACING THE EXISTING WAIAKA BRIDGE, REALIGNING THE BRIDGE APPROACHES, AND RECONSTRUCTING ROUTE 19/ROUTE 250 INTERSECTION AND SAFETY IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS					360
		TOTAL FUNDING	TRN		E		75E
			TRN		N		285N
<b>TRN531 - MAUI HIGHWAYS</b>							
172.	V04	HONOAPIILANI HIGHWAY WIDENING, KUIHELANI HIGHWAY TO MAALAEA HARBOR, MAUI					
		DESIGN AND CONSTRUCTION FOR THE WIDENING OF HONOAPIILANI HIGHWAY, PHASE II, FROM NORTH KIHEI ROAD TO THE MAALAEA HARBOR ENTRANCE TO A FOUR-LANE DIVIDED HIGHWAY FOR ADDITIONAL CAPACITY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN				100	
		CONSTRUCTION					10,600
		TOTAL FUNDING	TRN		20E		2,120E
			TRN		80N		8,480N
173.	V14	KUIHELANI HIGHWAY WIDENING, HONOAPIILANI HIGHWAY TO PUUNENE AVENUE, MAUI					
		CONSTRUCTION FOR THE WIDENING OF KUIHELANI HIGHWAY, FROM HONOAPIILANI HIGHWAY TO PUUNENE AVENUE FROM TWO LANES TO FOUR LANES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION				10,150	
		TOTAL FUNDING	TRN		2,030E		E
			TRN		8,120N		N
174.	V48	GUARDRAIL AND SHOULDER IMPROVEMENTS ON STATE HIGHWAYS, MAUI					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN AND CONSTRUCTION TO BUILD ASPHALT CONCRETE PAVED SHOULDERS, THE INSTALLATION OF NEW METAL GUARDRAILS AND/OR UPGRADING EXISTING GUARDRAILS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			25		25
		CONSTRUCTION			1,250		1,250
		TOTAL FUNDING	TRN		275E		275E
			TRN		1,000N		1,000N
175.	V49	HONOAPIILANI HIGHWAY ROCKFALL PROTECTION ALONG THE PALI SECTION, MAUI					
		DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF CHAINLINK DRAPERY ALONG CUT SLOPES TO PREVENT ROCKS FROM FALLING ONTO THE HIGHWAY.					
		DESIGN			20		
		CONSTRUCTION			1,320		
		TOTAL FUNDING	TRN		1,340E		E
176.	V51	HONOAPIILANI HIGHWAY WIDENING AND/OR REALIGNMENT, HONOKOWAI TO PUAMANA, MAUI					
		LAND ACQUISITION AND DESIGN FOR THE WIDENING OF THE EXISTING HIGHWAY AND/OR CONSTRUCTION OF A NEW ALIGNMENT FROM HONOKOWAI TO PUAMANA, LAHAINA. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		LAND					9,475
		DESIGN					6,300
		TOTAL FUNDING	TRN		E		3,435E
			TRN		N		12,340N
177.	V52	HANA HIGHWAY, REPLACEMENT OF THREE TIMBER BRIDGES, MAUI					
		CONSTRUCTION FOR THE REPLACEMENT OF THREE TIMBER BRIDGES AND APPROACHES, PHASE II, KAUPAKALUA AND UAOA BRIDGES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION					8,000
		TOTAL FUNDING	TRN		E		1,600E
			TRN		N		6,400N
178.	V73	PUUNENE AVE./MOKULELE HWY. WIDENING, KUIHELANI HWY. TO PIILANI HWY., MAUI					
		DESIGN FOR THE WIDENING OF PUUNENE AVENUE AND MOKULELE HIGHWAY FROM TWO LANES TO FOUR LANES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			1,010		

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	TRN		205E		E
			TRN		805N		N
179.	V74	PAIA BYPASS ROAD, MAUI					
		PLANS FOR A NEW ROUTE TO BYPASS THE TOWN OF PAIA.					
		PLANS			1,010		
		TOTAL FUNDING	TRN		1,010E		E
180.	V75	HANA HIGHWAY ROCKFALL MITIGATION, HUELO TO HANA, MAUI					
		PLANS AND DESIGN TO REMOVE OVERHANGING, PROTRUDING, AND/OR UNSTABLE ROCKS FROM THE SLOPES ABOVE HANA HIGHWAY.					
		PLANS			45		
		DESIGN					85
		TOTAL FUNDING	TRN		45E		85E
181.	V76	HANA HWY./KAAHUMANU AVE. BEAUTIFICATION, DAIRY ROAD TO NANAILOA OVERPASS, MAUI					
		DESIGN AND CONSTRUCTION FOR THE BEAUTIFICATION OF THE MAIN CORRIDOR BETWEEN KAHULUI AND WAILUKU TO INCLUDE LANDSCAPING AND IRRIGATION. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			110		
		CONSTRUCTION			1,025		
		TOTAL FUNDING	TRN		230E		E
			TRN		905N		N
182.	V77	STREET LIGHTS AT VARIOUS HIGHWAY LOCATIONS, MAUI					
		DESIGN AND CONSTRUCTION OF STREET LIGHTS AT VARIOUS LOCATIONS ON STATE HIGHWAYS.					
		DESIGN			50		
		CONSTRUCTION			200		
		TOTAL FUNDING	TRN		250E		E
183.	V78	HONOAPIILANI HIGHWAY PASSING LANES, MAALAEA HARBOR TO PUAMANA, MAUI					
		PLANS AND DESIGN TO CONSTRUCT PASSING LANES ON HONOAPIILANI HIGHWAY BETWEEN MAALAEA HARBOR AND PUAMANA.					
		PLANS			1		
		DESIGN			364		
		TOTAL FUNDING	TRN		365E		E
184.	V79	DRAINAGE IMPROVEMENTS AT VARIOUS LOCATIONS ON STATE HIGHWAYS, MAUI					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN AND CONSTRUCTION FOR DRAINAGE IMPROVEMENTS TO PREVENT FLOODING ON KAAHUMANU AVENUE, PUUNENE AVENUE, AND HANA HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN				385	
		CONSTRUCTION				3,250	
		TOTAL FUNDING	TRN			715E	E
			TRN			2,920N	N
185.	V80	HONOAPILANI HIGHWAY, REPLACEMENT OF OLOWALU "B" BRIDGE, MAUI					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR THE REPLACEMENT OF OLOWALU "B" BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		LAND					305
		DESIGN				25	
		CONSTRUCTION					1,175
		TOTAL FUNDING	TRN			5E	300E
			TRN			20N	1,180N
186.	V81	KEKAULIKE AVENUE, REPLACEMENT OF NAALAE GULCH (ALAE) BRIDGE, MAUI					
		DESIGN FOR REPLACEMENT OF NAALAE GULCH (ALAE) BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN					670
		TOTAL FUNDING	TRN			E	140E
			TRN			N	530N
187.	V82	HONOAPILANI HIGHWAY STABILIZING EMBANKMENT SLOPE, MAUI					
		LAND ACQUISITION AND DESIGN FOR THE STABILIZING OF THE HIGHWAY EMBANKMENT FROM HONOKOWAI TO KAPALUA INCLUDING FLATTENING THE EMBANKMENT SLOPES AND CONSTRUCTING RETAINING WALLS.					
		LAND					1,315
		DESIGN				30	
		TOTAL FUNDING	TRN			30E	1,315E
188.	V83	MISCELLANEOUS TRAFFIC OPERATIONAL IMPROVEMENTS, MAUI					
		DESIGN AND CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES INCLUDING ELIMINATING CONSTRUCTIONS, CONSTRUCTING TURNING LANES, MODIFYING AND/OR INSTALLING TRAFFIC SIGNALS, AND OTHER IMPROVEMENTS.					
		DESIGN				50	
		CONSTRUCTION				1,000	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	TRN	1,050E			E
189.	V63	KAHULUI AIRPORT ACCESS ROAD, MAUI					
		LAND ACQUISITION AND CONSTRUCTION FOR AN ACCESS ROAD FROM PUUNENE AVENUE TO KAHULUI AIRPORT. PROJECT TO INCLUDE AN INTERCHANGE AT HANA HIGHWAY, STRIPING, LANDSCAPING, DRAINAGE, LIGHTING, UTILITIES, AND OTHER MISCELLANEOUS IMPROVEMENTS. (SPECIAL FUNDS FROM DUTY FREE)					
		LAND					11,000
		CONSTRUCTION		65,000			
		TOTAL FUNDING	TRN	45,000B			B
			TRN	20,000E			11,000E
190.	P97023	WAIEHU BEACH ROAD, MAUI					
		DESIGN AND CONSTRUCTION FOR A DUAL LEFT TURN STORAGE LANE ON WAIEHU BEACH ROAD TO KUHIO PLACE AND KEALII DRIVE. PROJECT TO INCLUDE THE INSTALLATION OF TRAFFIC LIGHTS AND OTHER NECESSARY IMPROVEMENTS.					
		DESIGN		160			
		CONSTRUCTION		600			
		TOTAL FUNDING	TRN	760E			E
190A.	V42	HALEAKALA HIGHWAY WIDENING, PUKALANI BYPASS TO HANA HIGHWAY, MAUI					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR THE WIDENING OF HALEAKALA HIGHWAY FROM 3 TO 4 LANES BETWEEN PUKALANI BYPASS TO HANA HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL-AID FINANCING AND/OR REIMBURSEMENT.					
		LAND					2,000
		DESIGN					250
		CONSTRUCTION					17,000
		TOTAL FUNDING	TRN		E		5,650E
			TRN		N		13,600N
<b>TRN541 - MOLOKAI HIGHWAYS</b>							
191.	W08	GUARDRAIL AND SHOULDER IMPROVEMENTS ON VARIOUS STATE HIGHWAYS, MOLOKAI					
		DESIGN AND CONSTRUCTION FOR CONSTRUCTING ASPHALT CONCRETE PAVED SHOULDERS, AND INSTALLING AND/OR UPGRADING METAL GUARDRAILS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN		20			
		CONSTRUCTION					610
		TOTAL FUNDING	TRN	5E			125E



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
			TRN		15N		485N
192.	W10	MOLOKAI BASEYARD, MOLOKAI					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR A MAINTENANCE BASEYARD FACILITY ON MOLOKAI PROJECT TO INCLUDE AN OFFICE BUILDING, STORAGE SHED, MOTOR VEHICLE AND EQUIPMENT SHED, MECHANICS SHOP, AND SITE IMPROVEMENTS.					
		LAND			400		
		DESIGN			100		
		CONSTRUCTION					3,100
		TOTAL FUNDING	TRN		500E		3,100E
<b>TRN561 - KAUAI HIGHWAYS</b>							
193.	X06	KAUMUALII HIGHWAY IMPROVEMENTS, LIHUE TO WEST OF MALUHIA ROAD, KAUAI					
		PLANS FOR WIDENING OF KAUMUALII HIGHWAY FROM LIHUE TO WEST OF MALUHIA ROAD FROM TWO TO FOUR LANES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS			2,850		
		TOTAL FUNDING	TRN		570E		E
			TRN		2,280N		N
194.	X07	KUHIO HIGHWAY IMPROVEMENTS, HANAMAULU TO KAPAA, KAUAI					
		LAND ACQUISITION AND DESIGN FOR A NEW KAPAA BYPASS AND/OR WIDENED SECTIONS OF KUHIO HIGHWAY. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		LAND					11,000
		DESIGN			5,400		
		TOTAL FUNDING	TRN		1,080E		2,200E
			TRN		4,320N		8,800N
195.	X51	GUARDRAIL AND SHOULDER IMPROVEMENTS ON VARIOUS STATE HIGHWAYS, KAUAI					
		DESIGN AND CONSTRUCTION FOR INSTALLING AND/OR UPGRADING OF GUARDRAILS INCLUDING END TERMINALS AND CRASH ATTENUATORS, AND RECONSTRUCTING AND PAVING OF SHOULDERS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			310		110
		CONSTRUCTION			3,030		1,015
		TOTAL FUNDING	TRN		675E		230E
			TRN		2,665N		895N
196.	X63	KAUMUALII HIGHWAY SHORING CAUSEWAY, KAUAI					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		CONSTRUCTION FOR INTERSECTION IMPROVEMENTS AT KAUMUALII HIGHWAY, KUHIO HIGHWAY, AND RICE STREET INTERSECTIONS. PROJECT TO INCLUDE REALIGNMENT OF KAUMUALII HIGHWAY, RELOCATION OF UTILITY POLES, DRAINAGE IMPROVEMENTS, AND RECONSTRUCTION OF THE TRAFFIC SIGNALS. (SPECIAL FUNDS FROM DUTY FREE)					
			CONSTRUCTION			7,110	
			TOTAL FUNDING	TRN		7,110B	B
197.	X105	KAUMUALII HIGHWAY, ACCELERATION LANE AT MALUHIA ROAD, KAUAI					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION OF AN ACCELERATION LANE WITH SHOULDERS STARTING FROM MALUHIA ROAD AND GOING EAST ALONG KAUMUALII HIGHWAY. PROJECT INCLUDES RELOCATING EXISTING POWER POLES AND TRAFFIC SIGNS, AND EXTENDING CULVERTS.					
			LAND			100	
			DESIGN			80	
			CONSTRUCTION			690	
			TOTAL FUNDING	TRN		870E	E
198.	X106	KUHIO HIGHWAY, MOIKEHA BRIDGE WIDENING, KAUAI					
		DESIGN FOR WIDENING MOIKEHA BRIDGE TO FOUR LANES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
			DESIGN				240
			TOTAL FUNDING	TRN		E	50E
				TRN		N	190N
199.	X107	WESTSIDE SATELLITE BASEYARD, KAUAI					
		DESIGN FOR A SATELLITE BASEYARD INCLUDING A NEW OFFICE BUILDING, EQUIPMENT STORAGE AREA, MATERIALS STORAGE AREA, AND A PARKING AREA.					
			DESIGN			400	
			TOTAL FUNDING	TRN		400E	E
200.	X108	KUHIO HIGHWAY, REPLACEMENT OF WAIPA STREAM BRIDGE, KAUAI					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR REPLACEMENT OF WAIPA STREAM BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
			LAND			410	
			DESIGN			710	
			CONSTRUCTION				4,140
			TOTAL FUNDING	TRN		230E	830E
				TRN		890N	3,310N

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
201.	X109	KUHIO HIGHWAY, REPLACEMENT OF WAIKOKO STREAM BRIDGE, KAUAI					
		DESIGN FOR REPLACEMENT OF WAIKOKO STREAM BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN					290
		TOTAL FUNDING	TRN		E		65E
			TRN		N		225N
202.	X110	KUHIO HIGHWAY SHOULDER IMPROVEMENTS, PRINCEVILLE TO HAENA, KAUAI					
		DESIGN FOR STABILIZING AND/OR PAVING THE SHOULDERS; REMOVING AND INSTALLING GUARDRAILS AND REFLECTOR MARKERS; CONSTRUCTING CONCRETE GUTTERS; EXTENDING EXISTING DRAINAGE PIPES AND STRUCTURES; AND TRIMMING AND DRESSING OF SHOULDERS.					
		DESIGN					310
		TOTAL FUNDING	TRN		E		310E
203.	X111	CENTRALIZED DISTRICT OFFICE AND BASEYARD COMPLEX, KAUAI					
		LAND ACQUISITION AND DESIGN FOR A NEW CENTRALIZED DISTRICT OFFICE AND BASEYARD COMPLEX FOR THE HIGHWAYS DIVISION KAUAI DISTRICT OFFICE.					
		LAND					3,000
		DESIGN		1,000			
		TOTAL FUNDING	TRN	1,000E			3,000E
204.	X112	MISCELLANEOUS TRAFFIC OPERATIONAL IMPROVEMENTS, KAUAI					
		DESIGN AND CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR IMPROVED TRAFFIC OPERATION. PROJECT INCLUDES ELIMINATING CONSTRUCTIONS, CONSTRUCTING TURNING LANES, MODIFYING AND/OR INSTALLING TRAFFIC SIGNALS, AND OTHER IMPROVEMENTS.					
		DESIGN				50	
		CONSTRUCTION		1,200			
		TOTAL FUNDING	TRN	1,250E			E
205.	X68	KUHIO HIGHWAY, WAIKAEA BRIDGE WIDENING, KAUAI					
		DESIGN AND CONSTRUCTION FOR WIDENING WAIKAEA BRIDGE AND ITS APPROACHES FROM 3 TO 4 LANES INCLUDING CONSTRUCTING PAVED SHOULDERS AND LEFT-TURN STORAGE LANES FOR OHIA STREET AND ULU STREET INTERSECTIONS AND THE PONO KAI SUBDIVISION ENTRANCE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN				25	
		CONSTRUCTION				2,500	
		TOTAL FUNDING				505E	E
			TRN			2,020N	N
206.	P97024	KUHIO HIGHWAY DRAINAGE IMPROVEMENTS, KAUAI					
		PLANS, DESIGN, AND CONSTRUCTION FOR FLOOD MITIGATIVE MEASURES INCLUDING BUT NOT LIMITED TO CULVERTS AND OTHER MISCELLANEOUS DRAINAGE IMPROVEMENTS FROM THE HANAIEI BRIDGE ALONG KUHIO HIGHWAY THROUGH HANAIEI TOWN.					
		PLANS				5	
		DESIGN				10	
		CONSTRUCTION				85	
		TOTAL FUNDING	TRN			100B	B
206A.	X60	INTERSECTION IMPROVEMENTS AT KAUMUALII HIGHWAY AND KOLOA ROAD, KAUAI					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR INTERSECTION IMPROVEMENTS AT KAUMUALII HIGHWAY AND KOLOA ROAD. PROJECT TO INCLUDE LEFT-TURN AND RIGHT-TURN LANES AND TRAFFIC SIGNAL SYSTEM WITH THE ADDITION OF TWO LANES TO LAWAI BRIDGE. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		LAND					290
		DESIGN					10
		CONSTRUCTION					3,510
		TOTAL FUNDING	TRN			E	1,010E
			TRN			N	2,800N
206B.		KAUMUALII HIGHWAY DRAINAGE AND SAFETY IMPROVEMENTS, VICINITY OF MP 22, KAUAI					
		DESIGN AND CONSTRUCTION FOR DRAINAGE IMPROVEMENTS AT MP22. IMPROVEMENTS INCLUDE INSTALLATION, UPGRADING AND/OR EXTENSION OF CULVERTS AND HEADWALLS GUARDRAIL IMPROVEMENTS, REGRADING AND MINOR REALIGNMENT OF ADJACENT PLANTATION ROAD, APPROACHES, AND SHOULDERS IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN					25
		CONSTRUCTION					740
		TOTAL FUNDING	TRN			E	175E
			TRN			N	590N
206C.		KUHIO HIGHWAY, MANOA STREAM FORD CROSSING, KAUAI					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN AND CONSTRUCTION FOR DRAINAGE IMPROVEMENTS AT MANOA STREAM CROSSING TO INCLUDE CONSTRUCTING A CULVERT SYSTEM, ROADWAY RECONSTRUCTION, WIDENING, RESURFACING, SHOULDER, AND SAFETY IMPROVEMENTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
							75
		DESIGN					75
		CONSTRUCTION					285
		TOTAL FUNDING	TRN		E		135E
			TRN		N		225N
206D.		KUHIO HIGHWAY INTERSECTION IMPROVEMENTS AT KALIHIWAI ROAD, KAUAI					
		DESIGN FOR A LEFT TURN LANE AT THE INTERSECTION OF KALIHIWAI ROAD AND KUHIO HIGHWAY.					
		DESIGN					20
		TOTAL FUNDING	TRN		E		20E
<b>TRN595 - HIGHWAYS ADMINISTRATION</b>							
207.	X96	CLOSE-OUT OF HIGHWAY RIGHT-OF-WAY, STATEWIDE					
		LAND ACQUISITION FOR COMPLETION OF ACQUISITION OF OUTSTANDING RIGHT-OF-WAY PARCELS ON PREVIOUSLY CONSTRUCTED PROJECTS TO PROVIDE THE TRANSFER OF REAL ESTATE INTERESTS FROM THE STATE TO THE COUNTIES FOR THE IMPLEMENTATION OF THE STATE HIGHWAY SYSTEM.					
		LAND				300	300
		TOTAL FUNDING	TRN			300E	300E
208.	X97	MISCELLANEOUS DRAINAGE IMPROVEMENTS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR DRAINAGE IMPROVEMENTS TO EXISTING HIGHWAY FACILITIES INCLUDING INSTALLATION OF DRAINAGE FACILITIES, GRATED DROP INLETS, LINED SWALES, HEADWALLS, AND CULVERTS AT VARIOUS LOCATIONS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN				130	130
		CONSTRUCTION				1,560	1,560
		TOTAL FUNDING	TRN			445E	885E
			TRN			1,245N	805N
209.	X98	IMPROVEMENTS TO INTERSECTIONS AND HIGHWAY FACILITIES, STATEWIDE					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN AND CONSTRUCTION FOR MISCELLANEOUS IMPROVEMENTS TO EXISTING INTERSECTIONS AND HIGHWAY FACILITIES NECESSARY FOR TRAFFIC SAFETY INCLUDING THE ELIMINATION OF CONSTRICTIONS ON- AND OFF-SITE, EFFECTING EFFICIENT FLOW OF TRAFFIC ON INTERSTATE HIGHWAYS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			375		375
		CONSTRUCTION			2,500		2,500
		TOTAL FUNDING	TRN		875E		875E
			TRN		2,000N		2,000N
210.	X99	HIGHWAY PLANNING, STATEWIDE					
		PLANS FOR ROAD USE, ROAD LIFE, ECONOMIC STUDIES, RESEARCH, AND ADVANCED PLANNING OF FEDERAL AID AND NON-FEDERAL AID HIGHWAY PROJECTS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS			1,750		1,750
		TOTAL FUNDING	TRN		420E		420E
			TRN		1,330N		1,330N
211.	X220	INSTALLATION OF EMERGENCY TELEPHONES AT VARIOUS HIGHWAY LOCATIONS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF EMERGENCY SOLAR POWERED CELLULAR TELEPHONES ON EACH ISLAND. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			30		30
		CONSTRUCTION			765		765
		TOTAL FUNDING	TRN		185E		185E
			TRN		610N		610N
212.	X221	TRAFFIC SIGNAL MODERNIZATION AT VARIOUS HIGHWAY LOCATIONS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR THE REPLACEMENT OF EXISTING TRAFFIC CONTROLLERS, CABLES AND CONDUITS, PULLBOXES, AND TRAFFIC SIGNAL APPURTENANCES TO PROVIDE INTERCONNECTION OF SIGNALIZED INTERSECTIONS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		DESIGN			300		
		CONSTRUCTION			1,500		1,500
		TOTAL FUNDING	TRN		600E		300E
			TRN		1,200N		1,200N
213.	X223	TELECOMMUNICATIONS PLAN, STATEWIDE					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS FOR PERMITTING THE USE OF THE HIGHWAY RIGHT-OF-WAY FOR TELECOMMUNICATIONS, TO INCLUDE, BUT NOT LIMITED TO, FIBER OPTIC CABLES AND CONDUITS.					
		PLANS			300		
		TOTAL FUNDING	TRN		300E		E
214.	X224	HIGHWAY SHORELINE PROTECTION, STATEWIDE					
		PLANS FOR DEVELOPING A STATEWIDE MASTER PLAN FOR THE PROTECTION OF THE STATE HIGHWAYS BEING IMPACTED BY SHORELINE EROSION.					
		PLANS			500		
		TOTAL FUNDING	TRN		500E		E
215.	X225	HIGHWAYS DIVISION CAPITAL IMPROVEMENT PROGRAM PROJECTS STAFF COSTS, STATEWIDE					
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR IMPLEMENTATION OF CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR DEPARTMENT OF TRANSPORTATION'S HIGHWAYS DIVISION. PROJECT MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENT PROGRAM PROJECTS RELATED POSITIONS.					
		PLANS			1		1
		LAND			1		1
		DESIGN			1		1
		CONSTRUCTION			18,997		18,997
		TOTAL FUNDING	TRN		6,000B		3,000B
					10,000E		10,000E
			TRN		3,000N		6,000N

D. ENVIRONMENTAL PROTECTION

HTH840 - ENVIRONMENTAL MANAGEMENT

- 1. 840801 WASTEWATER TREATMENT REVOLVING FUND FOR POLLUTION CONTROL, STATEWIDE

CONSTRUCTION FOR FUNDS TO MATCH FEDERAL CAPITALIZATION GRANTS FOR WASTEWATER PROJECTS. FUNDS APPROPRIATED TO BE TRANSFERRED TO WATER POLLUTION CONTROL REVOLVING FUND, ESTABLISHED PURSUANT TO CHAPTER 342-D, HRS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.

CONSTRUCTION		20,369	16,632
TOTAL FUNDING	HTH	3,395C	2,772C
	HTH	16,974N	13,860N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
2.	840802	STATE CAPITALIZATION GRANT DRINKING WATER REVOLVING FUND, STATEWIDE					
		CONSTRUCTION FOR FUNDS TO MATCH FEDERAL CAPITALIZATION GRANTS TO COMPLY WITH THE SAFE DRINKING WATER ACT. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION		15,575		8,546	
		TOTAL FUNDING	HTH	3,115C		1,425C	
			HTH	12,460N		7,121N	
<b>LNR402 - FORESTS AND WILDLIFE RESOURCES</b>							
3.	D-45	KAWAI NUI MARSH WILDLIFE SANCTUARY, OAHU					
		CONSTRUCTION FOR WILDLIFE CONSERVATION FACILITIES TO INCLUDE: SHALLOW PONDS, WATER CONTROL STRUCTURES, VEGETATION REMOVAL, BOUNDARY FENCES, AND BOUNDARY SIGNS. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		CONSTRUCTION				3,420	
		TOTAL FUNDING	LNR		C	855C	
			LNR		N	2,565N	
4.	D-70	MOKULEIA FOREST RESERVE FIREBREAK ROAD, OAHU					
		CONSTRUCTION FOR A FIREBREAK ROAD IN THE MOKULEIA FOREST RESERVE ADJACENT TO MAKUA VALLEY FIRING RANGE.					
		CONSTRUCTION		35			
		TOTAL FUNDING	LNR	35C			C
5.	D-71	HILO BASEYARD UNDERGROUND FUEL TANK REPLACEMENT AND HYDRAULIC LIFT, HAWAII					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE REMOVAL AND DISPOSAL OF THREE (3) UNDERGROUND FUEL TANKS AND REPLACEMENT WITH ABOVE GROUND FUEL STORAGE SYSTEMS. THIS PROJECT IS NEEDED TO COMPLY WITH FEDERAL, STATE, AND COUNTY SAFETY REGULATIONS AND MEET OPERATIONAL NEEDS. PROJECT WILL ALSO INCLUDE A HYDRAULIC LIFT TO SERVICE VEHICLES.					
		PLANS			2		
		DESIGN			3		
		CONSTRUCTION				120	
		EQUIPMENT			25		
		TOTAL FUNDING	LNR		30C		120C

**LNR404 - WATER RESOURCES**

- 6. G55B KALAOA MONITOR WELL, HAWAII



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O	FISCAL YEAR 1998-99	M O
		CONSTRUCTION AND EQUIPMENT FOR A MONITOR WELL TO COLLECT HYDROLOGIC AND GEOLOGIC INFORMATION AND TO OBSERVE AQUIFER PERFORMANCE.					
					480		
					20		
		TOTAL FUNDING	LNR		500C		C
7.	G55C	KAHALUU MONITOR WELL, KONA, HAWAII					
		CONSTRUCTION AND EQUIPMENT FOR A DEEP MONITOR WELL TO COLLECT HYDROLOGIC AND GEOLOGIC INFORMATION AND TO OBSERVE AQUIFER PERFORMANCE.					
					210		
					20		
		TOTAL FUNDING	LNR		230C		C
8.	G55D	LAHAINA MONITOR WELL, MAUI					
		CONSTRUCTION AND EQUIPMENT FOR A MONITOR WELL TO COLLECT HYDROLOGIC AND GEOLOGIC INFORMATION AND TO OBSERVE AQUIFER PERFORMANCE.					
					230		
					20		
		TOTAL FUNDING	LNR		250C		C
9.	G55F	MONITOR WELL, OAHU					
		CONSTRUCTION AND EQUIPMENT FOR A MONITOR WELL TO COLLECT HYDROLOGIC AND GEOLOGIC INFORMATION AND TO OBSERVE AQUIFER PERFORMANCE.					
					265		
					20		
		TOTAL FUNDING	LNR		285C		C
<b>LNR405 - CONSERVATION &amp; RESOURCES ENFORCEMENT</b>							
10.	H08	HUNTER EDUCATION FACILITY, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR A HUNTER EDUCATION FACILITY TO INCLUDE OFFICE SPACE, CLASSROOM/TRAINING, STORAGE FACILITIES, AND HANDICAP ACCESS. FEDERAL FUNDS ARE AVAILABLE THROUGH THE PITTMAN-ROBERTSON PROGRAM.					
					5		
					40		
		TOTAL FUNDING	LNR		45N		425
							425N
11.	H09	HUNTER EDUCATION FACILITY, WAIMEA, HAWAII					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS, DESIGN, AND CONSTRUCTION FOR A HUNTER EDUCATION FACILITY TO INCLUDE OFFICE SPACE, CLASSROOM/TRAINING, STORAGE FACILITIES, AND HANDICAP ACCESS. FEDERAL FUNDS ARE AVAILABLE THROUGH THE PITTMAN-ROBERTSON PROGRAM.					
		PLANS			5		
		DESIGN			40		
		CONSTRUCTION					425
		TOTAL FUNDING	LNR		45N		425N
<b>LNR906 - LNR-NATURAL PHYSICAL ENVIRONMENT</b>							
12.	950026	CAPITAL IMPROVEMENTS PROGRAM STAFF COSTS, STATEWIDE					
		PLANS FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENTS PROGRAM PROJECTS FOR THE DEPARTMENT OF LAND AND NATURAL RESOURCES. PROJECT MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENTS PROGRAM RELATED POSITIONS.					
		PLANS			1,560		1,560
		TOTAL FUNDING	LNR		1,560C		1,560C
<b>E. HEALTH</b>							
<b>HTH101 - TUBERCULOSIS/HANSEN'S DISEASE CONTROL</b>							
1.	101801	LANAKILA HEALTH CENTER, RENOVATE TB CONTROL PROGRAM SPACE, OAHU					
		PLANS AND DESIGN TO RENOVATE THE TB CONTROL PROGRAM SPACE TO MEET INFECTION CONTROL GUIDELINES.					
		PLANS			24		
		DESIGN			116		
		TOTAL FUNDING	AGS		140C		C
<b>HTH111 - HANSEN'S DISEASE INSTITUTIONAL SERVICES</b>							
2.	111801	HALE MOHALU HOSPITAL, ASBESTOS REMOVAL, PHASE II, OAHU					
		DESIGN AND CONSTRUCTION FOR THE REMOVAL OF ASBESTOS MATERIALS. PROJECT TO INCLUDE THE REPLACEMENT OF CEILING AND LIGHT FIXTURES IN VARIOUS AREAS OF THE HOSPITAL.					
		DESIGN			25		
		CONSTRUCTION			225		
		TOTAL FUNDING	AGS		250C		C
3.	111802	KALAUPAPA MEDICAL FACILITY, INFECTIOUS WASTE CONTROL STERILIZER, MOLOKAI					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW STERILIZER FOR INFECTIOUS WASTE CONTROL AT THE KALAUPAPA MEDICAL FACILITY.					
		DESIGN			15		
		CONSTRUCTION			50		
		EQUIPMENT			50		
		TOTAL FUNDING	AGS		115C		C
<b>HTH501 - DEVELOPMENTAL DISABILITIES</b>							
4.	501801	HILO DAY ACTIVITY CENTER, NEW FACILITY, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW FACILITY FOR THE HILO DAY ACTIVITY PROGRAM.					
		DESIGN			288		
		CONSTRUCTION				4,582	
		EQUIPMENT				1	
		TOTAL FUNDING	AGS		288C	4,583C	
5.	501803	WAIMANO TRAINING SCHOOL AND HOSPITAL, WATER SYSTEM IMPROVEMENTS, OAHU					
		DESIGN AND CONSTRUCTION TO UPGRADE THE WATER SYSTEM AT WAIMANO. PROJECT WILL INCLUDE INCREASING WATER CAPACITY AND REPLACEMENT OF DISTRIBUTION LINES.					
		DESIGN			75		
		CONSTRUCTION			955		
		TOTAL FUNDING	AGS		1,030C		C
6.	P97025	WAIPAHU INDEPENDENT LIVING APARTMENT COMPLEX, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR DEVELOPMENT OF AN ASSISTIVE TECHNOLOGY ENHANCED, INDEPENDENT LIVING APARTMENT COMPLEX FOR PEOPLE WITH SEVERE PHYSICAL DISABILITIES TO BE LOCATED IN WAIPAHU.					
		DESIGN			1		
		CONSTRUCTION			698		
		EQUIPMENT			1		
		TOTAL FUNDING	HTH		700C		C
<b>HTH595 - HEALTH RESOURCES ADMINISTRATION</b>							
7.	P97026	WAIANAEO COAST COMPREHENSIVE HEALTH CENTER, OAHU					
		DESIGN AND CONSTRUCTION FOR A CENTRAL AIR CONDITIONING SYSTEM.					
		DESIGN			62		
		CONSTRUCTION			224		
		TOTAL FUNDING	HTH		286C		C
8.	P97027	KOKUA KALIHI VALLEY HEALTH CENTER, OAHU					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW HEALTH CENTER FACILITY FOR THE LOW INCOME RESIDENTS OF KALIHI VALLEY. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.					
					1		1
					1		1
					1		1
					496		496
					1		1
			HTH	500C			500C
9.	P97028	KAHUKU HOSPITAL, LONG TERM CARE UNIT, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR RENOVATIONS AND IMPROVEMENTS TO THE LONG TERM CARE UNIT AT KAHUKU HOSPITAL.					
					10		
					100		
							2,999
							1
			HTH	110C			3,000C
<b>HTH210 - COMMUNITY HOSPITALS</b>							
10.	P97029	MALUHIA FACILITY IMPROVEMENTS, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE EXPANSION AND IMPROVEMENT OF THE ADULT DAY HEALTH CENTER FOR THE PROGRAM OF ALL INCLUSIVE CARE FOR THE ELDERLY (PACE).					
					39		
					638		
					25		
			HTH	702C			C
11.	P97030	MAUI MEMORIAL HOSPITAL, AIR CONDITIONING IMPROVEMENTS, MAUI					
		CONSTRUCTION AND EQUIPMENT FOR AIR CONDITIONING IMPROVEMENTS AT MAUI MEMORIAL HOSPITAL TO INCLUDE THE INSTALLATION OF VARIOUS AIR CONDITIONING COMPONENTS.					
					257		
					1		
			HTH	258C			C
12.	P97031	KULA HOSPITAL, WINDOW RENOVATION AND IMPROVEMENTS, MAUI					
		DESIGN AND CONSTRUCTION FOR WINDOW RENOVATION AND IMPROVEMENTS AT KULA HOSPITAL TO INCLUDE THE INSTALLATION OF VARIOUS WINDOW COMPONENTS.					
					1		
					283		

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	HTH	284C			C
13.	P97032	MAUI MEMORIAL HOSPITAL, MASTER PLAN DEVELOPMENT, MAUI PLANS FOR MASTER PLAN DEVELOPMENT OF MAUI MEMORIAL HOSPITAL FOR FACILITIES AND FUTURE REQUIREMENTS.					
		PLANS		120			
		TOTAL FUNDING	HTH	120C			C
13A.	210901	KONA COMMUNITY HOSPITAL, PSYCHIATRIC UNIT, HAWAII CONSTRUCTION AND EQUIPMENT FOR A PSYCHIATRIC UNIT AT KONA COMMUNITY HOSPITAL.					
		CONSTRUCTION				1,200	
		EQUIPMENT				500	
		TOTAL FUNDING	AGS		C	1,700C	
13B.	210902	COMMUNITY HOSPITALS, CORRECTION OF FIRE CODE DEFICIENCIES, STATEWIDE DESIGN TO CORRECT FIRE CODE DEFICIENCIES AT HILO MEDICAL CENTER, KAUAI VETERANS MEMORIAL HOSPITAL, KOHALA HOSPITAL, AND LANAI COMMUNITY HOSPITAL.					
		DESIGN				89	
		TOTAL FUNDING	AGS		C	89C	
13C.	210903	COMMUNITY HOSPITALS, CORRECTIONS FOR ADA ACCESS DEFICIENCIES, STATEWIDE PLANS FOR REPORT TO CORRECT ACCESS REQUIREMENTS TO COMPLY WITH ADA CODES AT HILO MEDICAL CENTER, KAUAI VETERANS MEMORIAL HOSPITAL, LEAHI HOSPITAL, AND MALUHIA. REPORT TO INCLUDE RECOMMENDATIONS FOR CORRECTIONS AND COST ESTIMATES.					
		PLANS				200	
		TOTAL FUNDING	AGS		C	200C	
13D.	210904	COMMUNITY HOSPITALS, REPLACE/UPGRADE NURSE CALL SYSTEM, STATEWIDE DESIGN, CONSTRUCTION, AND EQUIPMENT TO REPLACE/UPGRADE THE NURSE CALL SYSTEM AT HILO MEDICAL CENTER AND LANAI COMMUNITY HOSPITAL TO MEET CODE REQUIREMENTS.					
		DESIGN				83	
		CONSTRUCTION				168	
		EQUIPMENT				670	
		TOTAL FUNDING	AGS		C	921C	
13E.	210905	COMMUNITY HOSPITALS, REPLACE UNDERGROUND STORAGE FUEL TANK SYSTEMS, KAUAI					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN AND CONSTRUCTION TO REPLACE UNDERGROUND STORAGE FUEL TANK SYSTEM AT KAUAI VETERANS MEMORIAL HOSPITAL AND SAMUEL MAHELONA MEMORIAL HOSPITAL.					
		DESIGN					18
		CONSTRUCTION					81
		TOTAL FUNDING	AGS		C		99C
13F.	210906	COMMUNITY HOSPITALS, UPGRADE HOT WATER SYSTEMS, STATEWIDE					
		DESIGN AND CONSTRUCTION TO UPGRADE THE HOT WATER SYSTEMS AT HILO MEDICAL CENTER AND SAMUEL MAHELONA MEMORIAL HOSPITAL.					
		DESIGN					18
		CONSTRUCTION					81
		TOTAL FUNDING	AGS		C		99C
13G.	210907	MAUI MEMORIAL HOSPITAL, INSTALL NEW FIRE WATERLINE, MAUI					
		DESIGN AND CONSTRUCTION TO INSTALL A NEW WATERLINE AND FIRE HYDRANTS AT MAUI MEMORIAL HOSPITAL.					
		DESIGN					41
		CONSTRUCTION					274
		TOTAL FUNDING	AGS		C		315C
13H.	210908	KAUAI VETERANS MEMORIAL HOSPITAL, INCINERATOR SCRUBBER, KAUAI					
		DESIGN FOR THE INSTALLATION OF A SCRUBBER AT KAUAI VETERANS MEMORIAL HOSPITAL.					
		DESIGN					36
		TOTAL FUNDING	AGS		C		36C
13I.	210909	COMMUNITY HOSPITALS, INSTALL EMERGENCY GENERATORS, STATEWIDE					
		DESIGN FOR INSTALLATION OF EMERGENCY GENERATOR FOR THE ACUTE CARE FACILITY AND FOR THE AIR CONDITIONING AND HEAT PUMP SYSTEM AT HILO MEDICAL CENTER AND FOR THE INSTALLATION OF A NEW EMERGENCY GENERATOR FOR SAMUEL MAHELONA MEMORIAL HOSPITAL.					
		DESIGN					149
		TOTAL FUNDING	AGS		C		149C
13J.	210910	COMMUNITY HOSPITALS, UPGRADE AIR CONDITIONING SYSTEM, STATEWIDE					
		DESIGN FOR UPGRADING OF AIR CONDITIONING SYSTEM AT HILO MEDICAL CENTER AND KAUAI VETERANS MEMORIAL HOSPITAL.					
		DESIGN					131
		TOTAL FUNDING	AGS		C		131C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
13K.	210911	LANAI COMMUNITY HOSPITAL, REPLACE MEDICAL GAS SYSTEM, LANAI					
		DESIGN FOR REPLACEMENT OF THE MEDICAL GAS SYSTEM AT LANAI COMMUNITY HOSPITAL.					33
		DESIGN					
		TOTAL FUNDING	AGS		C		33C
13L.	210912	KOHALA HOSPITAL, INSTALL WHEELCHAIR RAMP, HAWAII					
		DESIGN AND CONSTRUCTION FOR A WHEELCHAIR RAMP AT KOHALA HOSPITAL.					4
		DESIGN					21
		CONSTRUCTION			C		25C
		TOTAL FUNDING	AGS				
13M.	210914	KULA HOSPITAL, RENOVATE EXISTING ROOM FOR LONG TERM CARE BED, MAUI					
		DESIGN AND CONSTRUCTION TO RENOVATE AN EXISTING ROOM FOR A LONG TERM CARE BED AT KULA HOSPITAL.					9
		DESIGN					42
		CONSTRUCTION			C		51C
		TOTAL FUNDING	AGS				
13N.	210915	COMMUNITY HOSPITALS, RENOVATION/ REPLACEMENT OF FACILITIES, STATEWIDE					
		PLANS AND DESIGN FOR PREPARATION OF A PROJECT DEVELOPMENT REPORT FOR RENOVATION/REPLACEMENT OF EXISTING FACILITIES: HILO MEDICAL CENTER, NEW WELDING SHOP; KAUAI VETERANS MEMORIAL HOSPITAL, OB WING REPLACEMENT; LEAHI HOSPITAL, MEDICAL AND SUPPORT FACILITIES; AND LANAI COMMUNITY HOSPITAL, EXISTING FACILITY.					50
		PLANS					119
		DESIGN					169C
		TOTAL FUNDING	AGS		C		
13O.	210916	LEAHI HOSPITAL, DEMOLITION OF THE OLD CHILDREN'S BUILDING, OAHU					
		PLANS AND DESIGN TO DEMOLISH THE OLD CHILDREN'S BUILDING AT LEAHI HOSPITAL.					50
		PLANS					100
		DESIGN			C		150C
		TOTAL FUNDING	AGS				
13P.		MAUI MEMORIAL HOSPITAL, HOSPITAL IMPROVEMENTS, MAUI					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR FACILITY IMPROVEMENTS AND RENOVATIONS AT MAUI MEMORIAL HOSPITAL.					1
		PLANS					1
		LAND					1
		DESIGN					1

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		CONSTRUCTION EQUIPMENT					37,996
		TOTAL FUNDING	HTH		E		38,000E
13Q.		MAUI MEMORIAL HOSPITAL, EMERGENCY DEPARTMENT ROOF IMPROVEMENTS, MAUI					
		DESIGN AND CONSTRUCTION FOR ROOF IMPROVEMENTS FOR THE EMERGENCY DEPARTMENT AT MAUI MEMORIAL HOSPITAL.					
		DESIGN					20
		CONSTRUCTION					100
		TOTAL FUNDING	HTH		C		120C
13R.		MAUI MEMORIAL HOSPITAL, DIESEL FUEL TANK, MAUI					
		DESIGN AND CONSTRUCTION FOR INSTALLATION OF AN ABOVE GROUND DIESEL FUEL TANK AT MAUI MEMORIAL HOSPITAL.					
		DESIGN					20
		CONSTRUCTION					260
		TOTAL FUNDING	HTH		C		280C
<b>HTH420 - ADULT MENTAL HEALTH</b>							
14.		FRIENDSHIP HOUSE, KAUAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT TO COMPLETE THE FRIENDSHIP HOUSE ON KAUAI.					
		DESIGN				1	
		CONSTRUCTION				248	
		EQUIPMENT				1	
		TOTAL FUNDING	AGS			250C	C
<b>HTH430 - HAWAII STATE HOSPITAL</b>							
15.	430801	HAWAII STATE HOSPITAL, INSTALL DURESS SYSTEM, OAHU					
		DESIGN AND CONSTRUCTION TO INSTALL A DURESS SYSTEM THROUGHOUT THE HOSPITAL COMPLEX.					
		DESIGN				94	
		CONSTRUCTION					1,061
		TOTAL FUNDING	AGS			94C	1,061C
16.	430802	HAWAII STATE HOSPITAL, FUEL STORAGE TANKS, OAHU					
		DESIGN AND CONSTRUCTION TO REPLACE UNDERGROUND FUEL STORAGE TANKS ON HOSPITAL GROUNDS.					
		DESIGN				20	
		CONSTRUCTION				76	
		TOTAL FUNDING	AGS			96C	C
17.	430803	HAWAII STATE HOSPITAL, UPGRADE EMERGENCY POWER SYSTEM, OAHU					
		DESIGN TO UPGRADE THE EMERGENCY POWER SYSTEM FOR THE HOSPITAL.					
		DESIGN				124	



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	AGS		124C		C
<b>HTH460 - CHILD &amp; ADOLESCENT MENTAL HEALTH</b>							
18.	460801	RESIDENTIAL CHILDREN'S FACILITIES, STATEWIDE					
		PLANS, DESIGN, AND CONSTRUCTION FOR RESIDENTIAL CHILDREN'S FACILITIES FOR THE CHILD AND ADOLESCENT MENTAL HEALTH DIVISION.					
		PLANS			180		
		DESIGN			206		
		CONSTRUCTION			3,500		
		TOTAL FUNDING	AGS		3,886C		C
19.		TRAILERS FOR COMPREHENSIVE STUDENT SUPPORT SYSTEM (CSSS), STATEWIDE					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE COMPREHENSIVE STUDENT SUPPORT SYSTEM (CSSS) INITIATIVE. PROJECT MAY INCLUDE PURCHASE OF PORTABLE TRAILERS FOR THE CSSS PROGRAM.					
		PLANS			1		
		DESIGN			24		
		CONSTRUCTION			100		
		EQUIPMENT			375		
		TOTAL FUNDING	HTH		500C		C
<b>HTH610 - ENVIRONMENTAL HEALTH SERVICES</b>							
20.	610301	NEW VECTOR CONTROL FACILITY, HALAWA, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW VECTOR CONTROL FACILITY TO REPLACE EXISTING FACILITY. FACILITY TO INCLUDE LABORATORY FACILITIES AND OFFICES FOR THE VECTORS ADMINISTRATION AND FIELD OPERATIONS. PROJECT TO ALSO INCLUDE ON-SITE AND OFF-SITE IMPROVEMENTS AND NECESSARY APPURTENANCES.					
		DESIGN			1		
		CONSTRUCTION			7,348		
		EQUIPMENT			100		
		TOTAL FUNDING	AGS		7,449C		C
<b>HTH904 - EXECUTIVE OFFICE ON AGING</b>							
21.	P97035	HELPING HANDS HAWAII WAREHOUSE AND OFFICE SPACE, OAHU					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A HELPING HANDS HAWAII WAREHOUSE AND OFFICE BUILDING. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.					
		PLANS			100		
		LAND			1,000		
		DESIGN			100		
		CONSTRUCTION			1,000		

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		EQUIPMENT				50	
		TOTAL FUNDING	HTH			2,250C	C
<b>HTH907 - GENERAL ADMINISTRATION</b>							
22.	907501	CORRECTIONS TO ACCOMMODATE HANDICAPPED IN DOH FACILITIES, STATEWIDE					
		CONSTRUCTION FOR MODIFICATIONS FOR THE HANDICAPPED TO CORRECT EXISTING ARCHITECTURAL BARRIERS AT DEPARTMENT OF HEALTH FACILITIES.					
		CONSTRUCTION				2,000	
		TOTAL FUNDING	AGS			2,000C	C
23.	907802	DIAMOND HEAD HEALTH CENTER, RELOCATE FRESH AIR INTAKE FOR A/C SYSTEM, OAHU					
		DESIGN AND CONSTRUCTION TO RELOCATE THE FRESH AIR INTAKE FOR THE AIR CONDITIONING SYSTEM.					
		DESIGN				33	
		CONSTRUCTION				226	
		TOTAL FUNDING	AGS			259C	C
24.		WAIMANALO HEALTH CENTER, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR CODE AND RELATED IMPROVEMENTS FOR THE WAIMANALO HEALTH CENTER. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.					
		PLANS				2	
		DESIGN				2	
		CONSTRUCTION				344	
		EQUIPMENT				2	
		TOTAL FUNDING	HTH			250C	C
			HTH			100R	R

F. SOCIAL SERVICES

HMS501 - YOUTH SERVICES ADMINISTRATION

1.	501-98	HYCF COMPLEX PROJECT II, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR FACILITIES ON THE HYCF COMPLEX GROUNDS AND SATELLITE ADJUNCTS, INCLUDING RENOVATIONS AND INFRASTRUCTURE SUPPORT AND IMPROVEMENTS, PHASES II, III, AND IV.					
		PLANS				1	
		DESIGN				700	
		CONSTRUCTION				7,199	
		EQUIPMENT				100	
		TOTAL FUNDING	AGS			8,000C	C
1A.	501901	HYCF MAKAI HOOKIPA COTTAGE RENOVATION, OAHU					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT TO UPGRADE HOOKIPA COTTAGE.					
		PLANS					1
		DESIGN					60
		CONSTRUCTION					576
		EQUIPMENT					1
		TOTAL FUNDING	AGS		C		638C

HMS502 - YOUTH SERVICES PROGRAM

- 2. 502-98 MAUI YOUTH AND FAMILY SERVICES CAMPUS SUPPORT BUILDING, MAUI

PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE MAUI YOUTH AND FAMILY SERVICES CAMPUS SUPPORT BUILDING TO HOUSE SUBSTANCE ABUSE RESIDENTIAL HOMES, THERAPEUTIC GROUP HOMES, INDEPENDENT LIVING HOME AND OTHER NECESSARY IMPROVEMENTS. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.

PLANS				1		
LAND				1		
DESIGN				1		
CONSTRUCTION				1,996		
EQUIPMENT				1		
TOTAL FUNDING		HMS		2,000C		C

- 2A. BOYS AND GIRLS CLUB FACILITY, EWA BEACH, OAHU

PLANS AND CONSTRUCTION TO REPLACE CURRENT TEMPORARY STRUCTURE WITH A NEW PERMANENT FACILITY TO INCLUDE OFFICES, DROP-IN AREA, STUDY ROOM, AND OUTDOOR PLAYCOURT. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.

PLANS						20
CONSTRUCTION						480
TOTAL FUNDING		HMS			C	500C

- 2B. KUALOA-HEEIA ECUMENICAL YOUTH (KEY) PROJECT, OAHU

DESIGN, CONSTRUCTION, AND EQUIPMENT TO RENOVATE AND REPAIR THE EXISTING BUILDING; REPLACE MAJOR EQUIPMENT; COMPLY WITH HEALTH, SAFETY AND CODE REQUIREMENTS, GROUND AND SITE IMPROVEMENTS; APPURTENANCES.

DESIGN						10
CONSTRUCTION						50
EQUIPMENT						40
TOTAL FUNDING		HMS			C	100C

DEF112 - SERVICES TO VETERANS

- 3. 0VS931 VETERANS' CEMETERIES UPGRADE AND DEVELOPMENT, STATEWIDE

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		CONSTRUCTION FOR THE UPGRADE AND DEVELOPMENT OF VETERANS' CEMETERIES AT VARIOUS NEIGHBOR ISLAND SITES INCLUDING KAUAI, MAUI, MOLOKAI, LANAI, HILO, AND WEST HAWAII.					
		CONSTRUCTION				800	
		TOTAL FUNDING	DEF			800C	C
<b>HMS220 - RENTAL HOUSING SERVICES</b>							
4.	HA9705	HAUIKI HOMES SMOKE DETECTORS, OAHU					
		DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF SMOKE DETECTORS AT HAUIKI HOMES.					
		DESIGN				5	
		CONSTRUCTION				45	
		TOTAL FUNDING	HMS			50C	C
5.	HA9709	HAUIKI HOMES AND PALOLO HOMES I, RETAINING WALLS, OAHU					
		DESIGN AND CONSTRUCTION TO INSTALL NEW RETAINING WALLS AT HAUIKI HOMES AND PALOLO HOMES I.					
		DESIGN				30	
		CONSTRUCTION				290	
		TOTAL FUNDING	HMS			320C	C
6.	HA9720	HAUIKI HOMES PAINT ABATEMENT AND REPAINTING, OAHU					
		DESIGN TO REMOVE AND DISPOSE OF EXTERIOR LEAD BASED PAINT AND REPAINT BUILDINGS AT HAUIKI HOMES.					
		DESIGN				125	
		TOTAL FUNDING	HMS			125C	C
7.	HA98A1	HALE NANA KAI O KEA, NEW SEWER LINE, KAUAI					
		CONSTRUCTION FOR INSTALLATION OF NEW SEWER LINE AT HALE NANA KAI O KEA ON A SHARED BASIS.					
		CONSTRUCTION				35	
		TOTAL FUNDING	HMS			35C	C
8.	HA98A2	STATE PUBLIC HOUSING LEAD BASED PAINT ABATEMENT AND REROOFING, STATEWIDE					
		DESIGN FOR THE ABATEMENT OF LEAD BASED PAINT AND INSTALLATION OF IMPROVED ROOFING SYSTEMS IN STATE LOW INCOME HOUSING UNITS.					
		DESIGN				800	
		TOTAL FUNDING	HMS			800C	C
9.	HA9808	PALOLO HOMES I STAIRS, WALLS AND SIDEWALKS, OAHU					
		DESIGN AND CONSTRUCTION TO INSTALL STAIRS, WALLS, AND SIDEWALKS AT PALOLO HOMES I.					
		DESIGN				30	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		CONSTRUCTION				285	
		TOTAL FUNDING	HMS			315C	C
10.	HA9810	PUAHALA HOMES STAIRS, WALLS AND SIDEWALKS, OAHU					
		DESIGN AND CONSTRUCTION TO INSTALL STAIRS, WALLS, AND SIDEWALKS AT PUAHALA HOMES.					
		DESIGN				20	
		CONSTRUCTION				180	
		TOTAL FUNDING	HMS			200C	C
11.	P97038	KALIHI VALLEY HOMES, ROADWAY AND SEWER LINE, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION TO RECONSTRUCT THE ROADWAY TO THE ENTRANCE OF THE PROJECT AND THE RECONSTRUCTION OF THE EXISTING 8 INCH SEWER LINE.					
		PLANS				1	
		DESIGN				1	
		CONSTRUCTION				198	
		TOTAL FUNDING	HMS			200C	C
<b>BED220 - RENTAL HOUSING SERVICES</b>							
11A.	HA9720	HAUIKI HOMES PAINT ABATEMENT AND REPAINTING, OAHU					
		CONSTRUCTION TO REMOVE AND DISPOSE OF EXTERIOR LEAD BASED PAINT AND TO REPAINT BUILDINGS AT HAUIKI HOMES.					
		CONSTRUCTION					1,575
		TOTAL FUNDING	BED			C	1,575C
11B.	HA982A	STATE PUBLIC HOUSING LEAD BASED PAINT ABATEMENT, STATEWIDE					
		CONSTRUCTION FOR THE ABATEMENT OF LEAD BASED PAINT IN STATE LOW INCOME HOUSING UNITS.					
		CONSTRUCTION					4,594
		TOTAL FUNDING	BED			C	4,594C
11C.	HA982B	STATE PUBLIC HOUSING REROOFING, STATEWIDE					
		CONSTRUCTION FOR THE INSTALLATION OF IMPROVED ROOFING SYSTEMS IN STATE LOW INCOME HOUSING UNITS.					
		CONSTRUCTION					2,558
		TOTAL FUNDING	BED			C	2,558C

**HMS807 - TEACHER HOUSING**

12. TH9801 TEACHER HOUSING LEAD BASED PAINT ABATEMENT, STATEWIDE

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN AND CONSTRUCTION FOR THE ABATEMENT OF LEAD BASED PAINT IN TEACHER HOUSING COTTAGES, STATEWIDE. HAZARDOUS LEAD BASED PAINT WILL BE REMOVED OR ENCAPSULATED FROM TEACHER HOUSING COTTAGES.					
		DESIGN			59		
		CONSTRUCTION			589		
		TOTAL FUNDING	HMS		648C		C
13.	TH9802	TEACHER HOUSING DEMOLITION AND NEW CONSTRUCTION, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR THE DEMOLITION OF UNREQUIRED COTTAGES AND CONSTRUCTION OF REPLACEMENT TEACHER HOUSING COTTAGES.					
		DESIGN			102		
		CONSTRUCTION			1,026		
		TOTAL FUNDING	HMS		1,128C		C
16.	HA1704	LANAKILA HOMES IMPROVEMENTS, HAWAII					
		CONSTRUCTION FOR SITE AND BUILDING IMPROVEMENTS FOR LANAKILA HOMES TO MEET CURRENT CODES AND STANDARDS.					
		CONSTRUCTION			1,365		
		TOTAL FUNDING	HMS		1,365N		N
17.	HA1705	WAIMANALO HOMES IMPROVEMENTS, OAHU					
		CONSTRUCTION FOR SITE AND BUILDING IMPROVEMENTS AT WAIMANALO HOMES TO MEET CURRENT CODES AND STANDARDS.					
		CONSTRUCTION			1,248		
		TOTAL FUNDING	HMS		1,248N		N
18.	HA1708	KOOLAU VILLAGE BUILDING IMPROVEMENTS, OAHU					
		CONSTRUCTION FOR VARIOUS SITE AND BUILDING IMPROVEMENTS TO RENOVATE KOOLAU VILLAGE TO CURRENT CODES AND STANDARDS.					
		CONSTRUCTION			956		
		TOTAL FUNDING	HMS		956N		N
21.	H704A1	KALANIHUIA HOUSING ASBESTOS REMOVAL AND REROOFING, OAHU					
		CONSTRUCTION FOR ASBESTOS REMOVAL AND REROOFING AT KALANIHUIA HOUSING.					
		CONSTRUCTION			160		
		TOTAL FUNDING	HMS		160N		N
22.	H705A1	MAYOR WRIGHT HOMES HEALTH AND SAFETY IMPROVEMENTS, OAHU					
		CONSTRUCTION FOR INTERIM ABATEMENT OF LEAD BASED PAINT, SPALLING CONCRETE, AND DETERIORATED RAILINGS AT MAYOR WRIGHT HOMES.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		CONSTRUCTION				875	
		TOTAL FUNDING	HMS			875N	N
23.	H912A1	KUHIO PARK TERRACE DEMOLITION AND PARKING IMPROVEMENTS, OAHU					
		CONSTRUCTION FOR THE DEMOLITION OF BUILDINGS D-1 AND D-2 AND DEVELOPMENT OF A NEW PARKING LOT AT KUHIO PARK TERRACE.					
		CONSTRUCTION				150	
		TOTAL FUNDING	HMS			150N	N
<b>BED229 - HCDCH ADMINISTRATION</b>							
23A.	H-7061	KALIHI VALLEY HOMES IMPROVEMENTS, OAHU					
		CONSTRUCTION FOR BUILDING AND SITE IMPROVEMENTS AT THE EXISTING KALIHI VALLEY HOMES PROJECT TO MEET CURRENT CODES AND STANDARDS.					
		CONSTRUCTION					803
		TOTAL FUNDING	BED		N		803N
23B.	H-7062	WAIPAHU I HOUSING IMPROVEMENTS, OAHU					
		CONSTRUCTION FOR BUILDING AND SITE IMPROVEMENTS AT WAIPAHU I HOUSING TO MEET CURRENT CODES AND STANDARDS.					
		CONSTRUCTION					525
		TOTAL FUNDING	BED		N		525N
23C.	HA1704	LANAKILA HOMES IMPROVEMENTS, HAWAII					
		CONSTRUCTION FOR SITE AND BUILDING IMPROVEMENTS FOR LANAKILA HOMES TO MEET CURRENT CODES AND STANDARDS.					
		CONSTRUCTION					1,517
		TOTAL FUNDING	BED		N		1,517N
23D.	HA7081	MAILI I HOUSING IMPROVEMENTS, OAHU					
		CONSTRUCTION FOR BUILDING AND SITE IMPROVEMENTS AT THE EXISTING MAILI I PROJECT TO MEET CURRENT CODES AND STANDARDS.					
		CONSTRUCTION					695
		TOTAL FUNDING	BED		N		695N
23E.	HA7053	MAILI II HOUSING IMPROVEMENTS, OAHU					
		CONSTRUCTION FOR BUILDING AND SITE IMPROVEMENTS AT THE EXISTING MAILI II PROJECT TO MEET CURRENT CODES AND STANDARDS.					
		CONSTRUCTION					1,268
		TOTAL FUNDING	BED		N		1,268N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
23F.		HOUSING IMPROVEMENTS FOR FEDERAL LOW RENT PROJECTS, STATEWIDE					
		CONSTRUCTION FOR HOUSING IMPROVEMENTS INCLUDING BUT NOT LIMITED TO PHYSICAL, HEALTH AND SAFETY IMPROVEMENTS, AND COMPLIANCE WITH CURRENT CODES AND STANDARDS.					
		CONSTRUCTION					9,300
		TOTAL FUNDING	BED		N		9,300N
<b>BUF225 - PRIVATE HOUSING DEVELOPMENT &amp; OWNERSHIP</b>							
24.	HF8903	MILOLII WATER DEVELOPMENT PROJECT, HAWAII					
		CONSTRUCTION OF WATER WELLS, WATER DESALINATION STORAGE WATER TANKS, WATER LINES, AND NECESSITIES TO PROVIDE WATER FOR MILOLII RESIDENTS IN FULFILLMENT OF HEALTH REQUIREMENTS BY THE DEPARTMENT OF HEALTH.					
		CONSTRUCTION				50	
		TOTAL FUNDING	BUF			50C	C
25.		HOUSING INITIATIVES FOR PERSONS WITH SPECIAL NEEDS, STATEWIDE					
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR LIVING UNITS FOR PERSONS WITH SPECIAL NEEDS, STATEWIDE.					
		PLANS				20	
		LAND				887	
		DESIGN				29	
		CONSTRUCTION				264	
		TOTAL FUNDING	BUF			1,200C	C
<b>HHL602 - PLANNG, DEV, MGT &amp; GEN SPPT FOR HAWN HMSTDS</b>							
26.	LMD001	HAWAIIAN HOME LANDS DEVELOPMENT, STATEWIDE					
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR THE DEVELOPMENT OF HAWAIIAN HOME LANDS FOR RESIDENTIAL, AGRICULTURAL, AND OTHER PURPOSES PERMITTED BY THE HAWAIIAN HOMES COMMISSION ACT, 1920, AS AMENDED.					
		PLANS				1	
		LAND				1	
		DESIGN				1	
		CONSTRUCTION				99,997	
		TOTAL FUNDING	HHL			100,000E	E
<b>G. FORMAL EDUCATION</b>							
<b>EDN100 - SCHOOL-BASED BUDGETING</b>							
1.	001	LUMP SUM CIP-RELOCATION OR CONSTRUCTION OF TEMPORARY FACILITIES, STATEWIDE					



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR RELOCATION OR CONSTRUCTION OF TEMPORARY FACILITIES EACH SCHOOL YEAR TO MEET ENROLLMENT SHIFTS AMONG SCHOOLS, PROGRAM DEMANDS, UNFORESEEN EMERGENCIES, AND TO PROVIDE TEMPORARY FACILITIES AND/OR TRAILER PORTABLES WHILE SCHOOLS ARE BEING PLANNED AND/OR UNDER CONSTRUCTION/REPAIR.					
					250		250
					4,500		4,500
					250		250
			AGS		5,000B		5,000B
2.	002	LUMP SUM CIP-MINOR RENOVATIONS TO BUILDINGS AND SCHOOL SITES, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR MINOR ADDITIONS, RENOVATIONS AND IMPROVEMENTS TO BUILDINGS AND SCHOOL SITES.					
					150		150
					1,600		1,600
					100		100
			AGS		1,850B		1,850B
3.	003	LUMP SUM CIP-MASTER PLANS, SITE STUDIES AND MINOR LAND ACQUISITIONS, STATEWIDE					
		PLANS AND LAND ACQUISITION FOR MASTER PLANNING, SITE SELECTION, PRE-LAND ACQUISITION STUDIES TO MEET FUTURE AND UNFORESEEN NEEDS AND CIP ASSISTANCE FROM DAGS IN PROVIDING COST ESTIMATES FOR BUDGETING AND EXPENDITURE PLANNING.					
					995		1,000
					5		
			AGS		1,000B		1,000B
4.	004	LUMP SUM CIP-RENOVATIONS FOR NOISE ABATEMENT, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR CORRECTIVE MEASURES TO SCHOOLS AFFECTED BY EXCESSIVE NOISE, AND VENTILATION, AND/OR HIGH TEMPERATURE PROBLEMS.					
					100		100
					1,300		1,900
			AGS		1,400B		2,000B
5.	005	LUMP SUM CIP-FIRE PROTECTION, CODE VIOLATIONS AND ALARM SYSTEMS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR FIRE PROTECTION SYSTEMS AND/OR CORRECTIVE MEASURES TO ADDRESS FIRE CODE VIOLATIONS TO MEET COUNTY FIRE PROTECTION STANDARDS AND/OR FIRE CODE VIOLATIONS.					
					150		150
					850		850

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	AGS		1,000B		1,000B
6.	006	LUMP SUM CIP-ARCHITECTURAL BARRIERS AND SPECIAL EDUCATION CLASSROOMS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR THE PROVISION OF RAMPS, ELEVATORS, AND OTHER CORRECTIVE MEASURES FOR ACCESSIBILITY OF SCHOOL FACILITIES TO HANDICAPPED PERSONS.					
		DESIGN			250		250
		CONSTRUCTION			3,000		3,000
		TOTAL FUNDING	AGS		3,250B		3,250B
7.	007	LUMP SUM CIP-SPECIAL EDUCATION CLASSROOMS, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION AND/OR CONSTRUCTION OF CLASSROOMS FOR SPECIAL EDUCATION.					
		DESIGN			25		
		CONSTRUCTION			120		
		EQUIPMENT			5		
		TOTAL FUNDING	AGS		150B		B
8.	008	LUMP SUM CIP-ASBESTOS AND/OR LEAD PAINT REMOVAL IN SCHOOL BUILDINGS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR THE CORRECTION, IMPROVEMENT, AND RENOVATION TO ALL EXISTING SCHOOL BUILDINGS, STATEWIDE. PROJECT TO INCLUDE THE REMOVAL OF ASBESTOS AND/OR LEAD PAINT.					
		DESIGN					50
		CONSTRUCTION					450
		TOTAL FUNDING	AGS		B		500B
9.	009	LUMP SUM CIP-REQUIREMENTS FOR HEALTH AND SAFETY/LAWS AND ORDINANCES, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO SCHOOL FACILITIES AND GROUNDS TO MEET HEALTH, SAFETY REQUIREMENTS/LAWS AND ORDINANCES, AND/OR COUNTY REQUIREMENTS.					
		DESIGN			50		50
		CONSTRUCTION			450		450
		TOTAL FUNDING	AGS		500B		500B
10.	011	LUMP SUM CIP-PROJECT ADJUSTMENT FUND, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A CONTINGENCY FUND FOR PROJECT ADJUSTMENT PURPOSES SUBJECT TO THE PROVISIONS OF THE APPROPRIATIONS ACT. OTHER DOE PROJECTS WITHIN THIS ACT WITH UNREQUIRED BALANCES MAY BE TRANSFERRED INTO THIS PROJECT.					
		DESIGN			200		200
		CONSTRUCTION			1,750		1,750
		EQUIPMENT			50		50

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	AGS		2,000B		2,000B
11.	012	LUMP SUM CIP-TELECOMMUNICATIONS AND POWER INFRASTRUCTURE, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR TELECOMMUNICATIONS AND POWER INFRASTRUCTURE IMPROVEMENTS.					
		DESIGN			250		250
		CONSTRUCTION			3,700		3,700
		EQUIPMENT			50		50
		TOTAL FUNDING	AGS		4,000B		4,000B
12.	014	LUMP SUM CIP-CAPITAL IMPROVEMENTS PROGRAM COSTS, STATEWIDE					
		PLANS FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR IMPLEMENTATION OF CIP PROJECTS FOR THE DEPARTMENT OF EDUCATION. PROJECT MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CIP RELATED POSITIONS.					
		PLANS			250		250
		TOTAL FUNDING	EDN		250B		250B
13.	060	LUMP SUM CIP-STATE/DISTRICT RELOCATIONS AND IMPROVEMENTS, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR STATE AND DISTRICT OFFICE IMPROVEMENTS.					
		DESIGN			15		
		CONSTRUCTION			59		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		75B		B
14.		LUM SUM CIP - ELECTRICAL UPGRADES, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR ELECTRICAL SYSTEM UPGRADES AT SCHOOLS, STATEWIDE.					
		DESIGN			1		1
		CONSTRUCTION			998		998
		EQUIPMENT			1		1
		TOTAL FUNDING	AGS		1,000B		1,000B
15.		LUMP SUM CIP-EDUCATIONAL TECHNOLOGY INFRASTRUCTURE IMPROVEMENTS, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR EDUCATIONAL TECHNOLOGY INFRASTRUCTURE IMPROVEMENTS.					
		DESIGN			102		102
		CONSTRUCTION			3,000		3,000
		EQUIPMENT			50		20
		TOTAL FUNDING	AGS		3,152B		3,122B
16.	301W80	CASTLE HIGH SCHOOL, OAHU					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN AND CONSTRUCTION TO DEMOLISH AND REMOVE OLD GYM (BLDG. W) UPON THE COMPLETION OF THE NEW GYM.					
		DESIGN				73	
		CONSTRUCTION				427	
		TOTAL FUNDING	AGS			500B	B
17.	402004	CASTLE HIGH SCHOOL, OAHU					
		CONSTRUCTION AND EQUIPMENT FOR AN EIGHT CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		CONSTRUCTION				1,225	
		EQUIPMENT				75	
		TOTAL FUNDING	AGS			1,300B	B
18.	253A51	EWA ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR AN ADMINISTRATION/LIBRARY BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES; AND RENOVATION OF TEMPORARY FACILITIES TO CLASSROOMS.					
		DESIGN				200	
		CONSTRUCTION					2,875
		EQUIPMENT					125
		TOTAL FUNDING	AGS			200B	3,000B
18A.	852060	HAWAIIAN LANGUAGE IMMERSION PROGRAM, MAUI					
		PLANS, LAND, AND DESIGN TO CONSTRUCT OR RENOVATE FACILITIES FOR A HAWAIIAN LANGUAGE IMMERSION PROGRAM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		PLANS				1	
		LAND				1	
		DESIGN				298	
		TOTAL FUNDING	AGS			300B	B
18B.		HOLUALOA ELEMENTARY SCHOOL, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A CAFETORIUM, AND PORTABLE TO REPLACE FACILITIES DESTROYED BY FIRE; GROUND AND SITE IMPROVEMENTS; AND APPURTENANCES.					
		DESIGN					500
		CONSTRUCTION					2,500
		EQUIPMENT					460
		TOTAL FUNDING	AGS			B	3,460B
19.	404J60	IAO INTERMEDIATE SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION OF THE ARMORY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN				700	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		CONSTRUCTION EQUIPMENT					4,800
		TOTAL FUNDING	AGS		700B		200 5,000B
20.	371A51	KAHAKAI ELEMENTARY SCHOOL, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR AN ADMINISTRATION AND LIBRARY BUILDING(S); GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			275		
		CONSTRUCTION EQUIPMENT					3,438 175
		TOTAL FUNDING	AGS		275B		3,613B
21.	449151	KAPAA II ELEMENTARY SCHOOL, KAUAI					
		PLANS AND DESIGN FOR FIRST INCREMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES; AND OFF-SITE INFRASTRUCTURE.					
		PLANS				200	
		DESIGN				800	
		TOTAL FUNDING	AGS		1,000B		B
22.	821151	KAPOLEI HIGH SCHOOL, OAHU					
		DESIGN FOR NEW HIGH SCHOOL; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					4,000
		TOTAL FUNDING	AGS		B		4,000B
23.	822151	KAPOLEI INTERMEDIATE SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR FIRST INCREMENT OF NEW INTERMEDIATE SCHOOL; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN				500	
		CONSTRUCTION				17,765	
		EQUIPMENT				500	
		TOTAL FUNDING	AGS		18,765B		B
24.	822251	KAPOLEI INTERMEDIATE SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR SECOND INCREMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			1,000		
		CONSTRUCTION					17,101
		EQUIPMENT					1
		TOTAL FUNDING	AGS		1,000B		17,102B
25.	448100	KAUAI INTERMEDIATE SCHOOL (NEW), KAUAI					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		LAND ACQUISITION, CONSTRUCTION, AND EQUIPMENT FOR THE FIRST INCREMENT OF THE NEW SCHOOL. PROJECT TO INCLUDE CLASSROOMS; SUPPORT FACILITIES; ON/OFF SITE INFRASTRUCTURE; PARKING; PLAYCOURTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		LAND			500		
		CONSTRUCTION			2,650		16,800
		EQUIPMENT					300
		TOTAL FUNDING	AGS		3,150B		17,100B
26.	448251	KAUAI INTERMEDIATE SCHOOL, KAUAI					
		DESIGN AND CONSTRUCTION FOR SECOND INCREMENT; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		DESIGN			1,000		
		CONSTRUCTION					11,400
		TOTAL FUNDING	AGS		1,000B		11,400B
27.	354151	KEAAU HIGH SCHOOL, HAWAII					
		CONSTRUCTION AND EQUIPMENT FOR FIRST INCREMENT; CLASSROOMS; COVERED WALKWAYS; SUPPORT FACILITIES; PLAYFIELDS AND PLAYCOURTS; TEACHER STATIONS AND STORAGE; ON/OFF SITE INFRASTRUCTURE, PARKING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		CONSTRUCTION			29,500		
		EQUIPMENT			500		
		TOTAL FUNDING	AGS		30,000B		B
28.	354251	KEAAU HIGH SCHOOL, HAWAII					
		DESIGN FOR SECOND INCREMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			1,200		
		TOTAL FUNDING	AGS		1,200B		B
29.	354351	KEAAU HIGH SCHOOL, HAWAII					
		DESIGN FOR THIRD INCREMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					850
		TOTAL FUNDING	AGS			B	850B
30.	353251	KEAAU II ELEMENTARY SCHOOL, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR SECOND INCREMENT; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		DESIGN			750		
		CONSTRUCTION					7,250

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		EQUIPMENT					250
		TOTAL FUNDING	AGS		750B		7,500B
31.	392351	KEALAKEHE HIGH SCHOOL, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR SECOND AND/OR THIRD INCREMENT; EQUIPMENT AND APPURTENANCE; GROUND AND SITE IMPROVEMENTS.					
		DESIGN				755	
		CONSTRUCTION				9,847	
		EQUIPMENT				300	
		TOTAL FUNDING	AGS		10,902B		B
32.	392451	KEALAKEHE HIGH SCHOOL, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE FOURTH INCREMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		DESIGN				700	
		CONSTRUCTION					5,000
		EQUIPMENT					125
		TOTAL FUNDING	AGS		700B		5,125B
32A.	900551	KEALAKEHE INTERMEDIATE SCHOOL, HAWAII					
		DESIGN FOR AN ADMINISTRATION/LIBRARY BUILDING AND RENOVATION OF TEMPORARY FACILITIES INTO CLASSROOMS.					
		DESIGN					275
		TOTAL FUNDING	AGS			B	275B
33.	534006	KEONEPOKO ELEMENTARY SCHOOL, HAWAII					
		DESIGN AND CONSTRUCTION FOR CAFETERIA WITH PREPARATION KITCHEN; COVERED WALKWAYS; PARKING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN				50	
		CONSTRUCTION				1,027	
		TOTAL FUNDING	AGS		1,077B		B
33A.	391351	KEONEPOKO ELEMENTARY SCHOOL, HAWAII					
		DESIGN FOR AN ADMINISTRATION AND/OR LIBRARY BUILDING(S); GROUND AND SITE IMPROVEMENTS; RENOVATE TEMPORARY FACILITIES TO CLASSROOMS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					200
		TOTAL FUNDING	AGS			B	200B
34.	459151	KILAUEA ELEMENTARY SCHOOL, KAUAI					
		CONSTRUCTION AND EQUIPMENT FOR CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		CONSTRUCTION			1,610		
		EQUIPMENT			40		
		TOTAL FUNDING	AGS		1,650B		B
35.	457A51	KING KAUMUALII ELEMENTARY SCHOOL, KAUAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR ADMINISTRATION BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES. RENOVATION OF TEMPORARY ADMINISTRATION OFFICE TO CLASSROOMS.					
		DESIGN			175		
		CONSTRUCTION				1,750	
		EQUIPMENT				20	
		TOTAL FUNDING	AGS		175B	1,770B	
36.	435451	KING KEKAULIKE HIGH SCHOOL, MAUI					
		CONSTRUCTION AND EQUIPMENT FOR FOURTH INCREMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		CONSTRUCTION			11,000	10,000	
		EQUIPMENT			618		
		TOTAL FUNDING	AGS		11,618B	10,000B	
37.		KING KEKAULIKE HIGH SCHOOL, MAUI					
		DESIGN AND CONSTRUCTION FOR A WATER STORAGE TANK FOR KING KEKAULIKE HIGH SCHOOL TO BE BUILT BY THE BOARD OF WATER SUPPLY, COUNTY OF MAUI.					
		DESIGN			5		
		CONSTRUCTION			1,095		
		TOTAL FUNDING	AGS		1,100B		B
38.	375151	KONAWAENA ELEMENTARY (NEW) SCHOOL, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR FIRST INCREMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			500		
		CONSTRUCTION			4,860	13,455	
		EQUIPMENT				250	
		TOTAL FUNDING	AGS		5,360B	13,705B	
39.	375251	KONAWAENA ELEMENTARY SCHOOL (NEW), HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR SECOND INCREMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			700		
		CONSTRUCTION				4,685	
		EQUIPMENT				200	
		TOTAL FUNDING	AGS		700B	4,885B	



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
40.	411015	KUALAPUU ELEMENTARY SCHOOL, MOLOKAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A SIX CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			180		
		CONSTRUCTION				2,240	
		EQUIPMENT				40	
		TOTAL FUNDING	AGS		180B		2,280B
41.	412051	KULA ELEMENTARY SCHOOL, MAUI					
		CONSTRUCTION AND EQUIPMENT FOR A CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		CONSTRUCTION				2,350	
		EQUIPMENT				50	
		TOTAL FUNDING	AGS				2,400B
42.	271051	LEIHOKU ELEMENTARY SCHOOL, OAHU					
		CONSTRUCTION AND EQUIPMENT FOR CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		CONSTRUCTION			2,350		
		EQUIPMENT			40		
		TOTAL FUNDING	AGS		2,390B		B
42A.	629005	LOKELANI INTERMEDIATE, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR KITCHEN AND MULTI-PURPOSE DINING FACILITY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN				50	
		CONSTRUCTION				3,350	
		EQUIPMENT				50	
		TOTAL FUNDING	AGS				3,450B
43.	215051	MAKALAPA ELEMENTARY SCHOOL, OAHU					
		CONSTRUCTION AND EQUIPMENT FOR AN ADMINISTRATION BUILDING; RENOVATION OF TEMPORARY ADMINISTRATION OFFICES INTO CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		CONSTRUCTION			2,250		
		EQUIPMENT			125		
		TOTAL FUNDING	AGS		2,375B		B
45.	238251	MILILANI INTERMEDIATE SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR FIRST AND SECOND INCREMENT; GROUND AND SITE IMPROVEMENTS, EQUIPMENT AND APPURTENANCES.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN		1,000			
		CONSTRUCTION		17,450			
		EQUIPMENT		350			
		TOTAL FUNDING	AGS	18,800B			B
46.	421051	MOLOKAI HIGH AND INTERMEDIATE SCHOOL, MOLOKAI					
		CONSTRUCTION AND EQUIPMENT FOR AN EIGHT CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		CONSTRUCTION		3,725			
		EQUIPMENT		75			
		TOTAL FUNDING	AGS	3,800B			B
46A.	262451	NANAKULI ELEMENTARY SCHOOL, OAHU					
		DESIGN FOR AN EIGHT CLASSROOM BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					225
		TOTAL FUNDING	AGS		B		225B
46B.	823200	NANAKULI IV ELEMENTARY, OAHU					
		PLANS AND DESIGN FOR FIRST INCREMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		PLANS					200
		DESIGN					1,300
		TOTAL FUNDING	AGS		B		1,500B
48.	243A51	PEARL RIDGE ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR ADMINISTRATION BUILDING; GROUND AND SITE IMPROVEMENTS; RENOVATION OF TEMPORARY FACILITIES TO CLASSROOM(S); EQUIPMENT AND APPURTENANCES.					
		DESIGN		175			
		CONSTRUCTION					1,500
		EQUIPMENT					75
		TOTAL FUNDING	AGS	175B			1,575B
49.	314030	PUOHALA ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR RETAINING STRUCTURE AND DRAINAGE IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN		60			
		CONSTRUCTION					500
		TOTAL FUNDING	AGS	60B			500B
50.	147051	ROYAL ELEMENTARY SCHOOL, OAHU					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR AN ADMINISTRATION/LIBRARY BUILDING; APPURTENANCES; GROUND AND SITE IMPROVEMENTS; RENOVATION OF EXISTING FACILITIES TO A CLASSROOM.					
		DESIGN		235			
		CONSTRUCTION				2,760	
		EQUIPMENT				50	
		TOTAL FUNDING	AGS	235B		2,810B	
51.	284151	ROYAL KUNIA ELEMENTARY SCHOOL, OAHU					
		PLANS AND DESIGN FOR FIRST INCREMENT OF NEW SCHOOL; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		PLANS				200	
		DESIGN				1,300	
		TOTAL FUNDING	AGS		B	1,500B	
52.	420C51	SAMUEL ENOKA KALAMA INTERMEDIATE SCHOOL, MAUI					
		CONSTRUCTION AND EQUIPMENT FOR A NEW LIBRARY FACILITY; RENOVATE TEMPORARY LIBRARY TO CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		CONSTRUCTION		2,525			
		EQUIPMENT		75			
		TOTAL FUNDING	AGS	2,600B			B
53.	288A51	WAI'IAU ELEMENTARY SCHOOL, OAHU					
		CONSTRUCTION AND EQUIPMENT FOR ADMINISTRATION/LIBRARY BUILDING(S); RENOVATION OF TEMPORARY FACILITIES INTO CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		CONSTRUCTION		3,225			
		EQUIPMENT		175			
		TOTAL FUNDING	AGS	3,400B			B
54.	424031	WAIHEE ELEMENTARY SCHOOL, MAUI					
		DESIGN FOR A PLAYFIELD; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN		125			
		TOTAL FUNDING	AGS	125B			B
55.	424051	WAIHEE ELEMENTARY SCHOOL, MAUI					
		DESIGN FOR CLASSROOM BUILDING; EQUIPMENT AND APPURTENANCES; GROUND AND SITE IMPROVEMENTS.					
		DESIGN				225	
		TOTAL FUNDING	AGS		B	225B	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
56.	290251	WAIKELE ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR SECOND INCREMENT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			450		
		CONSTRUCTION			7,900		
		EQUIPMENT			250		
		TOTAL FUNDING	AGS		8,600B		B
57.	393351	WAIKOLOA ELEMENTARY SCHOOL, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THIRD INCREMENT TO INCLUDE LIBRARY AND CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			225		
		CONSTRUCTION					3,200
		EQUIPMENT					100
		TOTAL FUNDING	AGS		225B		3,300B
58.		MISCELLANEOUS SCHOOL RENOVATIONS AND IMPROVEMENTS TO OLD URBAN SCHOOLS, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR MISCELLANEOUS RENOVATIONS AND IMPROVEMENTS TO OLDER URBAN HONOLULU DISTRICT SCHOOLS (KAAHUMANU ELEMENTARY; KALIHI KAI ELEMENTARY; LIKELIKE ELEMENTARY; MCKINLEY HIGH; AND ROOSEVELT HIGH); GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		PLANS			1		
		DESIGN			55		
		CONSTRUCTION			2,200		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		2,257C		C
59.		TECHNOLOGY INFRASTRUCTURE IMPROVEMENTS TO VARIOUS DOE SCHOOLS, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR COMPLETE TECHNOLOGY INFRASTRUCTURE IMPROVEMENTS TO VARIOUS DEPARTMENT OF EDUCATION SCHOOLS (KAIMUKI INTER, JEFFERSON, LIHOLIHO, WAIKIKI, ALA WAI, WASHINGTON, LIKELIKE, PALOLO, JARRETT, ROOSEVELT, STEVENSON, LINCOLN, MCKINLEY, ROYAL, DOLE, KALIHI WAENA, HIGHLANDS INTER, KUHIO, AND LUNALILLO); GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		PLANS			1		
		DESIGN			249		
		CONSTRUCTION			2,500		
		EQUIPMENT			1		

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	AGS	2,751	C		C
59A.		AUGUST AHRENS ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A CLASSROOM BUILDING WITH UP TO (10) CLASSROOMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					30
		CONSTRUCTION					669
		EQUIPMENT					1
		TOTAL FUNDING	EDN		C		700C
60.		AIEA HIGH SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR SPRINKLER SYSTEM IMPROVEMENTS TO INCLUDE AN AUTOMATIC SPRINKLER HEAD SYSTEM.					
		DESIGN				1	
		CONSTRUCTION				93	
		EQUIPMENT				1	
		TOTAL FUNDING	AGS		95C		C
60A.		AIEA HIGH SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR RENOVATION AND UPGRADE OF THE ELECTRICAL SYSTEM AND OTHER IMPROVEMENTS INCLUDING TRANSFORMERS, PANELS, AND ADDITIONAL ELECTRICAL OUTLETS FOR BUILDINGS T AND Q; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					101
		CONSTRUCTION					664
		EQUIPMENT					1
		TOTAL FUNDING	AGS		C		766C
60B.		BALDWIN HIGH SCHOOL, MAUI					
		DESIGN FOR A NEW (12) CLASSROOM SCIENCE BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					1,200
		TOTAL FUNDING	AGS		C		1,200C
60C.		BALDWIN HIGH SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR LOCKERS, BENCHES, FOLD-UP DIVIDERS, AND TROPHY CASES; EQUIPMENT AND APPURTENANCES.					
		DESIGN					10
		CONSTRUCTION					120
		EQUIPMENT					20
		TOTAL FUNDING	AGS		C		150C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
61.		BEN PARKER ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR DRAINAGE IMPROVEMENTS TO INCLUDE CONCRETE LINING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			1		
		CONSTRUCTION			399		
		EQUIPMENT			100		
		TOTAL FUNDING	AGS		500C		C
62.		CENTRAL INTERMEDIATE SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE INSTALLATION OF SIX HUNDRED STUDENT LOCKERS.					
		DESIGN			1		
		CONSTRUCTION			43		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		45C		C
63.		EWA BEACH ELEMENTARY SCHOOL, OAHU					
		EQUIPMENT FOR A NEW CAFETORIUM FOR EWA BEACH ELEMENTARY SCHOOL.					
		EQUIPMENT			22		
		TOTAL FUNDING	AGS		22C		C
64.		FARRINGTON HIGH SCHOOL, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE IMPROVEMENTS TO THE EXISTING DRAINAGE SYSTEM SURROUNDING THE ATHLETIC COMPLEX AND ATHLETIC FIELD; MISCELLANEOUS IMPROVEMENTS TO THE LOCKER/SHOWER AND RESTROOM FACILITIES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		PLANS			1		
		DESIGN			58		
		CONSTRUCTION			400		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		460C		C
64A.		HIGHLANDS INTERMEDIATE SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION TO EXPAND AND RENOVATE CLASSROOMS IN BUILDING G TO ACCOMMODATE AN IMPROVED RESOURCE CENTER FOR TECHNOLOGY EDUCATION; EQUIPMENT AND APPURTENANCES.					
		DESIGN					33
		CONSTRUCTION					167
		TOTAL FUNDING	AGS			C	200C
64B.		HOKULANI ELEMENTARY SCHOOL, OAHU					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN AND CONSTRUCTION FOR AIR CONDITIONING OF THE COMPUTER ROOM; EQUIPMENT AND APPURTENANCES.					
		DESIGN					32
		CONSTRUCTION					112
		TOTAL FUNDING	AGS		C		144C
64C.		HONOWAI ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR AIR-CONDITIONING OF THE LIBRARY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					20
		CONSTRUCTION					229
		EQUIPMENT					1
		TOTAL FUNDING	AGS		C		250C
64D.		ILIMA INTERMEDIATE SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION AND EXPANSION OF THE LIBRARY; AIR CONDITIONING AND OTHER IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					180
		CONSTRUCTION					1,770
		EQUIPMENT					40
		TOTAL FUNDING	AGS		C		1,990C
64E.		JEFFERSON ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR AIR CONDITIONING OF CLASSROOM(S); EQUIPMENT AND APPURTENANCES.					
		DESIGN					6
		CONSTRUCTION					28
		TOTAL FUNDING	AGS		C		34C
64F.		JEFFERSON ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR AIR CONDITIONING OF THE ADMINISTRATION BUILDING; EQUIPMENT AND APPURTENANCES.					
		DESIGN					7
		CONSTRUCTION					69
		TOTAL FUNDING	AGS		C		76C
64G.		KAIMUKI INTERMEDIATE SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR AIR CONDITIONING OF BUILDING R; EQUIPMENT AND APPURTENANCES.					
		DESIGN					40
		CONSTRUCTION					624
		TOTAL FUNDING	AGS		C		664C
66.		KALAHEO HIGH SCHOOL, OAHU					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE INSTALLATION OF SECURITY SCREENS AND OTHER MISCELLANEOUS IMPROVEMENTS THROUGHOUT THE COMPLEX.					
		PLANS				1	
		DESIGN				1	
		CONSTRUCTION				197	
		EQUIPMENT				1	
		TOTAL FUNDING	AGS			200C	C
66A.		KALAKAUA INTERMEDIATE SCHOOL, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT TO RENOVATE OUTDOOR LANAI; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		PLANS					1
		DESIGN					1
		CONSTRUCTION					12
		EQUIPMENT					1
		TOTAL FUNDING	EDN			C	15C
67.		KALANI HIGH SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A MULTIPURPOSE CLASSROOM FACILITY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN				1	
		CONSTRUCTION				73	
		EQUIPMENT				1	
		TOTAL FUNDING	AGS			75C	C
67A.		KALIHI-WAENA ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION TO UPGRADE ELECTRICAL CAPACITY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					25
		CONSTRUCTION					225
		TOTAL FUNDING	AGS			C	250C
67B.		KAMILOIKI ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR INSTALLATION OF STAIRWELL GATES; EQUIPMENT AND APPURTENANCES.					
		DESIGN					1
		CONSTRUCTION					9
		TOTAL FUNDING	AGS			C	10C
67C.		KANOELANI ELEMENTARY SCHOOL, OAHU					



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR INSTALLATION OF TECHNOLOGY INFRASTRUCTURE TO ENABLE LOCAL AREA NETWORK ACCESS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					5
		CONSTRUCTION					40
		EQUIPMENT					39
		TOTAL FUNDING	AGS		C		84C
67D.		KAPUNAHALA ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR AN ENCLOSED ADMINISTRATION/LIBRARY BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					70
		CONSTRUCTION					360
		TOTAL FUNDING	AGS		C		430C
67E.		KAUAI HIGH AND INTERMEDIATE SCHOOL, KAUAI					
		DESIGN AND CONSTRUCTION FOR COVERED WALKWAYS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					100
		CONSTRUCTION					900
		TOTAL FUNDING	AGS		C		1,000C
68.		KAWANANAKOA INTERMEDIATE SCHOOL, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION AND IMPROVEMENTS TO THE AUDITORIUM. PROJECT TO INCLUDE THE RENOVATION OF THE ELECTRICAL SYSTEM, LIGHTING, PLUMBING, P.A. SYSTEM, AND OTHER MISCELLANEOUS EQUIPMENT AND APPURTENANCES.					
		PLANS				1	
		DESIGN				1	
		CONSTRUCTION				197	
		EQUIPMENT				1	
		TOTAL FUNDING	AGS		200C		C
69.		KAWANANAKOA INTERMEDIATE SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE INSTALLATION OF UNDERGROUND PLUMBING THROUGHOUT THE CAMPUS AND OTHER MISCELLANEOUS IMPROVEMENTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN				15	
		CONSTRUCTION				100	
		EQUIPMENT				10	
		TOTAL FUNDING	AGS		125C		C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
70.		KAWANANAKOA INTERMEDIATE SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE INSTALLATION OF THREE HUNDRED STUDENT LOCKERS.					
		DESIGN			3		
		CONSTRUCTION			15		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		19C		C
70A.		KAWANANAKOA INTERMEDIATE SCHOOL, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION TO RESURFACE THE PARKING LOT; RENOVATE THE MUSIC BUILDING; DEVELOP A LANDSCAPING MASTER PLAN; CONSTRUCT AN ENCLOSED STUDENT EATING LANAI; GROUND AND SITE IMPROVEMENTS; APPURTENANCES.					
		PLANS					50
		DESIGN					100
		CONSTRUCTION					600
		TOTAL FUNDING	AGS			C	750C
70B.		KEKAHA ELEMENTARY SCHOOL, KAUAI					
		DESIGN AND CONSTRUCTION FOR THE DEMOLITION AND REPLACEMENT OF BUILDINGS B AND C; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					196
		CONSTRUCTION					3,215
		TOTAL FUNDING	AGS			C	3,411C
71.		KING LIHOLIHO ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR AIR CONDITIONING OF CLASSROOMS.					
		DESIGN			1		
		CONSTRUCTION			190		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		192C		C
71A.		KING LIHOLIHO ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR AIR CONDITIONING OF CLASSROOM(S); GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					5
		CONSTRUCTION					25
		TOTAL FUNDING	AGS			C	30C
72.		KONAWAENA HIGH SCHOOL, HAWAII					
		PLANS, DESIGN, AND CONSTRUCTION FOR AN ALL-WEATHERIZED TRACK AND OTHER MISCELLANEOUS IMPROVEMENTS TO THE ATHLETIC FIELD AND COMPLEX.					
		PLANS			1		
		DESIGN			1		

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		CONSTRUCTION			98		
		TOTAL FUNDING	AGS		100C		C
73.		LAHAINA INTERMEDIATE SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A PHYSICAL EDUCATION LOCKER/SHOWER FACILITY; PLAYFIELDS; PLAYCOURTS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			62		
		CONSTRUCTION			1,400		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		1,463C		C
74.		LAHAINALUNA HIGH SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW LIBRARY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			174		
		CONSTRUCTION					3,057
		EQUIPMENT			100		
		TOTAL FUNDING	AGS		274C		3,057C
74A.		LANA'I HIGH AND ELEMENTARY, LANA'I					
		PLANS FOR A MASTER PLAN TO SEPERATE AND EXPAND THE ELEMENTARY AND INTERMEDIATE PORTIONS OF THE SCHOOL TO MAKE BETTER USE OF EXISTING SPACE.					
		PLANS					170
		TOTAL FUNDING	AGS			C	170C
76.		LEHUA ELEMENTARY SCHOOL, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR A PARKING LOT AND OTHER IMPROVEMENTS.					
		PLANS			1		
		DESIGN			248		
		CONSTRUCTION			1		
		TOTAL FUNDING	AGS		250C		C
77.		LIHIKAI ELEMENTARY SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR (2) PORTABLE SPECIAL EDUCATION FACILITIES.					
		DESIGN			8		
		CONSTRUCTION			201		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		210C		C
77A.		LIKELIKE INTERMEDIATE SCHOOL, OAHU					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT TO REPAIR BUILDING D; EXTEND COVERED WALKWAY; PARKING LOT FOR SCHOOL BUSES; PLAYGROUND EQUIPMENT; GRADE LAND; UPPER AND LOWER FIELD PLAYGROUND EQUIPMENT; THE AREA BETWEEN BUILDING A AND E; AND AIR CONDITIONING FOR THE COMPUTER LAB; GROUND AND SITE IMPROVEMENTS; AND APPURTENANCES.					
		PLANS					1
		DESIGN					1
		CONSTRUCTION					182
		EQUIPMENT					1
		TOTAL FUNDING	EDN		C		185C
77B.		LIKELIKE ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE LANDSCAPING OF THE AREA BETWEEN BUILDINGS A AND E; REPLACEMENT OF PLAYGROUND EQUIPMENT; GROUND AND SITE IMPROVEMENTS; AND APPURTENANCES.					
		DESIGN					1
		CONSTRUCTION					198
		EQUIPMENT					1
		TOTAL FUNDING	AGS		C		200C
77C.		LILIUOKALANI ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR AIR CONDITIONING OF CLASSROOM(S); GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					5
		CONSTRUCTION					25
		TOTAL FUNDING	AGS		C		30C
77D.		LINAPUNI ELEMENTARY SCHOOL, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE SCHOOL TECHNOLOGY CENTER; GROUND AND SITE IMPROVEMENTS; AND APPURTENANCES.					
		PLANS					25
		DESIGN					50
		CONSTRUCTION					324
		EQUIPMENT					1
		TOTAL FUNDING	AGS		C		400C
78.		MAEMAE ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR THE RENOVATION AND UPGRADE OF THE ELECTRICAL SYSTEM AND OTHER IMPROVEMENTS INCLUDING TRANSFORMERS, PANELS, AND ADDITIONAL ELECTRICAL OUTLETS.					
		DESIGN				45	
		CONSTRUCTION				220	

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	AGS	265C			C
79.		MAEMAE ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR THE RECONSTRUCTION AND IMPROVEMENTS TO SCHOOL'S ENTRANCE; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN		50			
		CONSTRUCTION		200			
		TOTAL FUNDING	AGS	250C			C
79A.		MAEMAE ELEMENTARY SCHOOL, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR DRAINAGE TO RELIEVE FLOODING AND BARRIERS AND FENCING FOR SAFETY.					
		PLANS					50
		DESIGN					100
		CONSTRUCTION					450
		TOTAL FUNDING	AGS		C		600C
79B.		MAUI HIGH SCHOOL, MAUI					
		DESIGN AND CONSTRUCTION FOR INSTALLATION OF A FENCE AT MAUI HIGH SCHOOL; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					4
		CONSTRUCTION					20
		TOTAL FUNDING	AGS		C		24C
79C.		MOANALUA INTERMEDIATE SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR A 12-FOOT WIDE ASPHALT ROADWAY, TURN-AROUND AREA, AND DRIVEWAY CONNECTION FROM EXISTING PARKING LOT TO THE BAND ROOM; GROUND AND SITE IMPROVEMENTS.					
		DESIGN					15
		CONSTRUCTION					90
		TOTAL FUNDING	AGS		C		105C
79D.		MOUNTAIN VIEW ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR DRIVEWAY AND PARKING LOT; GROUND AND SITE IMPROVEMENTS; APPURTENANCES.					
		DESIGN					11
		CONSTRUCTION					55
		TOTAL FUNDING	AGS		C		66C
80.		NOELANI ELEMENTARY SCHOOL, OAHU					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN AND CONSTRUCTION FOR THE RENOVATION AND/OR EXPANSION OF THE ADMINISTRATION BUILDING TO INCLUDE SPACE FOR THE PCNC, A + , AND OTHER SCHOOL PROGRAMS; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			57		
		CONSTRUCTION			233		
		TOTAL FUNDING	AGS		290C		C
81.		NUUANU ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF SECURITY SCREENS FOR BUILDINGS B, F, H, AND I AND OTHER NECESSARY IMPROVEMENTS.					
		DESIGN					8
		CONSTRUCTION					97
		TOTAL FUNDING	AGS			C	105C
82.		NUUANU ELEMENTARY SCHOOL, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR THE RESURFACING OF THE PARKING LOT, PLAYGROUND PLAYCOURT AND PATHS BETWEEN THE TWO AREAS; GROUND AND SITE IMPROVEMENTS.					
		PLANS				1	
		DESIGN				1	
		CONSTRUCTION				118	
		TOTAL FUNDING	AGS			120C	C
83.		NUUANU ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION AND EXPANSION OF THE SCHOOL LIBRARY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN				100	
		CONSTRUCTION				899	
		EQUIPMENT				1	
		TOTAL FUNDING	AGS			1,000C	C
83A.		NUUANU ELEMENARY SCHOOL, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR SAFE ROADWAY ACCESS; UPGRADE LANDSCAPING; GROUND AND SITE IMPROVEMENTS; AND APPURTENANCES.					
		PLANS					1
		DESIGN					1
		CONSTRUCTION					323
		TOTAL FUNDING	AGS			C	325C
84.		PAHOA ELEMENTARY SCHOOL, HAWAII					
		PLANS, DESIGN, AND CONSTRUCTION FOR A COVERED WALKWAY.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS			1		
		DESIGN			1		
		CONSTRUCTION			48		
		TOTAL FUNDING	AGS		50C		C
84A.		PAHOA HIGH AND INTERMEDIATE SCHOOL, HAWAII					
		PLANS AND DESIGN FOR A NEW GYMNASIUM.					
		PLANS					100
		DESIGN					350
		TOTAL FUNDING	AGS			C	450C
85.		PEARL CITY ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR AIR CONDITIONING OF BUILDINGS H, I, J AND K.					
		DESIGN			1		
		CONSTRUCTION			773		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		775C		C
85A.		PEARL CITY ELEMENTARY SCHOOL, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR EXPANSION OF THE LIBRARY AND COMPUTER LAB; GROUND AND SITE IMPROVEMENTS; AND APPURTENANCES.					
		PLANS					1
		DESIGN					1
		CONSTRUCTION					248
		TOTAL FUNDING	EDN			C	250C
85B.		PEARL CITY HIGH SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF THREE SINGLE CATTLEGATES; EQUIPMENT AND APPURTENANCES.					
		DESIGN					4
		CONSTRUCTION					16
		TOTAL FUNDING	AGS			C	20C
86.		PEARL RIDGE ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION OF LIBRARY SPACE FOR A VIDEO STUDIO AND BROADCAST BOOTH ROOM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN			20		
		CONSTRUCTION			155		
		EQUIPMENT			100		
		TOTAL FUNDING	AGS		275C		C
86A.		PEARL RIDGE ELEMENTARY SCHOOL, OAHU					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR INSTALLATION OF LIGHT FIXTURES IN THE PARKING LOT; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					5
		CONSTRUCTION					30
		EQUIPMENT					10
		TOTAL FUNDING	AGS			C	45C
87.		ROOSEVELT HIGH SCHOOL, OAHU					
		PLANS, LAND ACQUISITION, AND DESIGN FOR MASTER PLANNING OF RENOVATIONS AND IMPROVEMENTS TO THE CAMPUS, BUILDINGS, GROUNDS, AND ATHLETIC FIELDS.					
		PLANS			249		
		LAND			1		
		DESIGN			100		
		TOTAL FUNDING	AGS		350C		C
87A.		ROOSEVELT HIGH SCHOOL, OAHU					
		DESIGN FOR RENOVATION OF THE AUDITORIUM INCLUDING AIR-CONDITIONING; GROUND AND SITE IMPROVEMENTS; AND APPURTENANCES.					
		DESIGN					232
		TOTAL FUNDING	AGS			C	232C
87B.		ROOSEVELT HIGH SCHOOL, OAHU					
		PLANS AND DESIGN FOR MASTER PLANNING OF A MULTI-PURPOSE FACILITY TO PROVIDE ADDITIONAL INSTRUCTIONAL CLASSROOMS, OFFICE SPACE, AND A GYMNASIUM.					
		PLANS					10
		DESIGN					140
		TOTAL FUNDING	AGS			C	150C
88.		SALT LAKE ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION OF PODS INTO INDIVIDUAL CLASSROOMS; POWER UPGRADES; AIR CONDITIONING; EQUIPMENT AND APPURTENANCES.					
		DESIGN			20		
		CONSTRUCTION			499		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		520C		C
88A.		WAIANAE HIGH SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR POWER SYSTEM UPGRADES; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					120
		CONSTRUCTION					550
		EQUIPMENT					30



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	AGS		C		700C
88B.		WAIHEE ELEMENTARY SCHOOL, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW LIBRARY; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					145
		CONSTRUCTION					2,140
		EQUIPMENT					1
		TOTAL FUNDING	AGS		C		2,286C
88C.		WAIHEE ELEMENTARY SCHOOL, MAUI					
		DESIGN FOR A NEW ADMINISTRATION BUILDING; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					120
		TOTAL FUNDING	AGS		C		120C
90.		WAIMALU ELEMENTARY SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION OF A CLASSROOM TO INCLUDE A VIDEO STUDIO AND BROADCAST ROOM; GROUND AND SITE IMPROVEMENTS; EQUIPMENT AND APPURTENANCES.					
		DESIGN				20	
		CONSTRUCTION				70	
		EQUIPMENT				85	
		TOTAL FUNDING	AGS		175C		C
90A.		WAIPAHAU ELEMENTARY SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR POWER AND TECHNOLOGY UPGRADES; EQUIPMENT AND APPURTENANCES.					
		DESIGN					30
		CONSTRUCTION					255
		TOTAL FUNDING	AGS		C		285C
90B.		WAIPAHAU HIGH SCHOOL, OAHU					
		DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF A DOUBLE CATTLEGATE.					
		DESIGN					3
		CONSTRUCTION					10
		TOTAL FUNDING	AGS		C		13C
90C.		WASHINGTON INTERMEDIATE SCHOOL, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT TO COMPLETE LOCAL AREA NETWORK (LAN) BY CONNECTING H BUILDING, LIBRARY, MUSIC/ BAND ROOMS, BOYS AND GIRLS LOCKER ROOMS AND PORTABLES TO EXISTING NETWORKS; EQUIPMENT AND APPURTENANCES.					
		DESIGN					1
		CONSTRUCTION					27

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		EQUIPMENT					1
		TOTAL FUNDING	EDN		C		29C
<b>AGS807 - PHYSICAL PLANT OPERATIONS &amp; MAINTENANCE-AGS</b>							
91.	CSD02	LUMP SUM CIP, SCHOOL BUILDING IMPROVEMENTS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR ROOFING IMPROVEMENTS FOR PUBLIC SCHOOL FACILITIES.					
		DESIGN				784	
		CONSTRUCTION				5,747	
		TOTAL FUNDING	AGS			6,531C	C
92.	CSD03	LUMP SUM CIP, SCHOOL BUILDING IMPROVEMENTS, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE IMPROVEMENT OF PUBLIC SCHOOL FACILITIES, STATEWIDE. PROJECT MAY INCLUDE ROOFING, AIR CONDITIONING, PAINTING, PLUMBING, OTHER REPAIRS AND IMPROVEMENTS TO PUBLIC SCHOOL FACILITIES MAINTAINED BY DAGS AND/OR DOE.					
		DESIGN				500	500
		CONSTRUCTION				16,500	21,500
		EQUIPMENT				500	500
		TOTAL FUNDING	AGS			17,500C	22,500C
<b>EDN407 - PUBLIC LIBRARIES</b>							
93.	01-H&S	HEALTH AND SAFETY REQUIREMENTS, STATEWIDE					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR HEALTH AND SAFETY PROJECTS AT PUBLIC LIBRARY FACILITIES. PROJECT INCLUDES, BUT IS NOT LIMITED TO, ASBESTOS ABATEMENT, FIRE PROTECTION, REMOVAL OF ARCHITECTURAL BARRIERS, IMPROVEMENTS TO BUILDINGS AND GROUNDS, PROVISIONS FOR ENVIRONMENTAL CONTROLS AND THE REPLACEMENT OF HAZARDOUS FACILITIES.					
		PLANS				60	60
		DESIGN				300	300
		CONSTRUCTION				2,000	2,000
		EQUIPMENT				40	40
		TOTAL FUNDING	AGS			2,400C	2,400C
94.	02-NSK	NORTH SHORE KAUAI PUBLIC LIBRARY, KAUAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW LIBRARY FACILITY WITH TEMPERATURE, HUMIDITY, AND ACOUSTICAL CONTROLS.					
		DESIGN				1	1
		CONSTRUCTION				3,998	1
		EQUIPMENT				1	398
		TOTAL FUNDING	AGS			4,000C	400C
95.	04-KOH	KOHALA PUBLIC LIBRARY, HAWAII					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN FOR A NEW LIBRARY FACILITY WITH TEMPERATURE, HUMIDITY, AND ACOUSTICAL CONTROLS.					200
		DESIGN					200
		TOTAL FUNDING	AGS		C		200C
96.	03-KAP	KAPOLEI PUBLIC LIBRARY, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW LIBRARY FACILITY WITH TEMPERATURE, HUMIDITY, AND ACOUSTICAL CONTROLS.					
		DESIGN		509			1
		CONSTRUCTION					8,393
		EQUIPMENT					489
		TOTAL FUNDING	AGS	509C			8,883C
97.		MANOA PUBLIC LIBRARY, OAHU					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW LIBRARY FACILITY WITH TEMPERATURE, HUMIDITY, AND ACOUSTICAL CONTROLS.					
		PLANS			50		
		LAND			2		
		DESIGN		600			
		CONSTRUCTION					5,999
		EQUIPMENT					1
		TOTAL FUNDING	AGS	652C			6,000C
98.	07-PCY	PEARL CITY PUBLIC LIBRARY, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR ADDITIONAL PARKING STALLS AND OTHER NECESSARY IMPROVEMENTS FOR THE PEARL CITY PUBLIC LIBRARY.					
		PLANS			10		
		DESIGN			40		
		CONSTRUCTION			200		
		TOTAL FUNDING	AGS		250C		C
99.	06-AEA	AIEA PUBLIC LIBRARY (NEW), OAHU					
		PLANS FOR A FEASIBILITY STUDY TO LOCATE AND/OR BUILD AT THE OLD AIEA SUGAR MILL AND/OR THE HAWAII SUGAR PLANTERS ASSOCIATION (HSPA) RESEARCH FACILITY. PROJECT MAY INCLUDE THE POSSIBILITY OF ACQUIRING THE NECESSARY PROPERTY AND/OR BUILDINGS.					
		PLANS			50		
		TOTAL FUNDING	AGS		50C		C
99A.		MCCULLY-MOILILI PUBLIC LIBRARY, OAHU					
		DESIGN AND CONSTRUCTION FOR THE INSTALLATION OF A WALKWAY IN BACK OF THE LIBRARY FOR EXIT TO MAKAHIKI STREET.					
		DESIGN					2
		CONSTRUCTION					8

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
TOTAL FUNDING			AGS		C		10C
<b>UOH100 - UNIVERSITY OF HAWAII, MANOA</b>							
100.	M86	UHM, FOOD SERVICE FACILITIES, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR RENOVATION AND IMPROVEMENTS TO THE FOOD SERVICES FACILITIES.					
		PLANS			1		
		DESIGN			1		
		CONSTRUCTION			497		
		EQUIPMENT			1		
		TOTAL FUNDING	UOH		500B		B
101.	M87	UHM, PARKING IMPROVEMENTS, OAHU					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR PARKING IMPROVEMENTS ON THE MANOA CAMPUS.					
		PLANS			1		
		DESIGN			1		
		CONSTRUCTION			497		
		EQUIPMENT			1		
		TOTAL FUNDING	UOH		500W		W
102.	023	UHM, CRAWFORD HALL RENOVATION, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION OF CRAWFORD HALL TO PROVIDE FOR MODERN TEACHING AND LEARNING FACILITIES.					
		DESIGN			264		1
		CONSTRUCTION					3,641
		EQUIPMENT					345
		TOTAL FUNDING	AGS		264C		3,987C
103.	041	UHM, HAWAII HALL RENOVATION, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION OF HAWAII HALL. PROJECT TO INCLUDE SITE IMPROVEMENTS, EQUIPMENT, AND OTHER RELATED WORK.					
		DESIGN			1,135		
		CONSTRUCTION					12,040
		EQUIPMENT					1
		TOTAL FUNDING	AGS		1,135C		12,041C
104.	050	UHM, SPECIAL EVENTS ARENA AND ATHLETICS SUPPORT FACILITIES, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE SPECIAL EVENTS ARENA AND ATHLETICS SUPPORT FACILITIES. ALSO, FOR THE DEMOLITION OF EXISTING FACILITIES AND RELOCATION AND RENOVATION OF FACILITIES FOR PROGRAMS AFFECTED BY THIS PROJECT.					
		DESIGN			408		
		CONSTRUCTION			4,784		

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		EQUIPMENT			460		
		TOTAL FUNDING	UOH		5,652C		C
105.	173	UHM, MAUNA KEA OBSERVATORY, EDUCATION AND INFORMATION CENTER, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE EDUCATION AND INFORMATION CENTER AT MAUNA KEA.					
		DESIGN			22		
		CONSTRUCTION			1,408		
		EQUIPMENT			98		
		TOTAL FUNDING	AGS		1,528R		R
106.	175	UHM, COCONUT ISLAND MARINE RESEARCH LABORATORY, OAHU					
		CONSTRUCTION AND EQUIPMENT FOR THE COCONUT ISLAND MARINE RESEARCH LABORATORY. PROJECT MAY BE USED TO SUPPLEMENT PRIVATE CONTRIBUTIONS FOR THE MARINE RESEARCH LABORATORY AND RELATED FACILITIES.					
		CONSTRUCTION			600		
		EQUIPMENT			500		
		TOTAL FUNDING	UOH		1,100C		C
107.	178	UHM, HAMILTON LIBRARY, PHASE III, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR HAMILTON LIBRARY, PHASE III, RENOVATION OF EXISTING LIBRARY, AND OTHER LIBRARY SUPPORT FACILITIES.					
		DESIGN			1		400
		CONSTRUCTION			36,500		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		36,502C		400C
108.	181	UHM, KRAUSS HALL COMPLEX RENOVATION, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION OF THE KRAUSS HALL COMPLEX. PROJECT TO INCLUDE EQUIPMENT REMOVAL, DEMOLITION, FACILITY RENOVATION, NEW FURNITURE, AND EQUIPMENT FOR OLD KRAUSS HALL AND KRAUSS ANNEX.					
		DESIGN			60		
		CONSTRUCTION			1,290		
		EQUIPMENT			100		
		TOTAL FUNDING	AGS		1,450B		B
109.	532	UHM, INSTITUTE FOR ASTRONOMY, UNIVERSITY PARK FACILITY IN HILO, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A HEADQUARTER FACILITY FOR THE INSTITUTE FOR ASTRONOMY PERSONNEL AT THE UNIVERSITY PARK IN HILO.					
		DESIGN					1
		CONSTRUCTION					1

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		EQUIPMENT					2,478
		TOTAL FUNDING	AGS		C		2,480C
110.	291	UHM, WOMEN'S SOFTBALL STADIUM, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A WOMEN'S SOFTBALL STADIUM. PROJECT TO INCLUDE A GRANDSTAND, FENCING, AND OTHER APPURTENANCES AT THE MAKAI CAMPUS.					
		DESIGN			1		
		CONSTRUCTION			398		
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		400C		C
110A.	I-03	UHM, PACIFIC OCEAN SCIENCE AND TECHNOLOGY CENTER, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR INSTRUCTIONAL AND RESEARCH FACILITIES FOR THE PACIFIC OCEAN SCIENCE AND TECHNOLOGY CENTER.					
		DESIGN					1
		CONSTRUCTION					12,499
		EQUIPMENT					1,000
		TOTAL FUNDING	AGS		C		13,500C
110B.		UHM, PEARL CITY URBAN GARDEN CENTER, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE PEARL CITY URBAN GARDEN CENTER. PROJECT TO INCLUDE NEW ENTRY AND ROADWAY, CLASSROOM BUILDINGS, RENOVATION OF EXISTING STRUCTURES, WALKWAYS, PARKING, AND OTHER RELATED IMPROVEMENTS.					
		DESIGN			46		
		CONSTRUCTION			635		
		EQUIPMENT			17		
		TOTAL FUNDING	AGS		698C		C
<b>UOH210 - UNIVERSITY OF HAWAII, HILO</b>							
111.	342	UHH, CLASSROOM/OFFICE BUILDING, HAWAII					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR INSTRUCTIONAL FACILITIES AT THE UNIVERSITY OF HAWAII AT HILO.					
		PLANS			200		
		DESIGN			1,000		
		CONSTRUCTION					14,600
		EQUIPMENT					1,400
		TOTAL FUNDING	AGS		1,200C		16,000C
112.		UHH, MARINE SCIENCE BUILDING, HAWAII					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A MARINE SCIENCE BUILDING LOCATED AT THE UNIVERSITY OF HAWAII AT HILO. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS AND OTHER RELATED WORK.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS			70		
		DESIGN			180		
		CONSTRUCTION					2,500
		EQUIPMENT					250
		TOTAL FUNDING	AGS		250C		2,750C
113.	440	UHH, UNIVERSITY PARK, PHASE II, HAWAII					
		DESIGN AND CONSTRUCTION FOR INFRASTRUCTURE AND OTHER IMPROVEMENTS AT THE UHH MAUKA CAMPUS SITE TO ACCOMMODATE THE DEVELOPMENT AND EXPANSION OF UHH'S STUDENT HOUSING, ACADEMIC, AND RESEARCH PROGRAMS.					
		DESIGN			207		
		CONSTRUCTION					3,024
		TOTAL FUNDING	AGS		207C		3,024C
114.	960071	UHH, FEDERAL RESEARCH FACILITY, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A FEDERAL RESEARCH FACILITY AT THE UNIVERSITY PARK. PROJECT TO INCLUDE GROUND AND SITE IMPROVEMENTS, INFRASTRUCTURE, EQUIPMENT AND APPURTENANCES, AND OTHER RELATED WORK.					
		DESIGN					1
		CONSTRUCTION					12,000
		EQUIPMENT					1
		TOTAL FUNDING	UOH		N		12,002N
114A.	446	UHH, HEALTH, SAFETY, AND CODE REQUIREMENTS, HAWAII					
		PLANS, DESIGN, AND CONSTRUCTION FOR MODIFICATIONS TO THE EXISTING STUDENT SERVICES BUILDING FOR HEALTH, SAFETY, AND CODE REQUIREMENTS.					
		PLANS					10
		DESIGN					40
		CONSTRUCTION					250
		TOTAL FUNDING	AGS		C		300C
114B.		UHH, MULTI-PURPOSE SPORTS RECREATION AND CONFERENCE COMPLEX, HAWAII					
		PLANS FOR A MULTI-PURPOSE SPORTS RECREATION AND CONFERENCE COMPLEX LOCATED AT THE UNIVERSITY OF HAWAII AT HILO.					
		PLANS					100
		TOTAL FUNDING	UOH		C		100C
114C.		UHH, COLLEGE OF AGRICULTURE WELL DEVELOPMENT, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW WELL AND PUMP FOR THE AGRICULTURAL FARM AT PANAWEA.					
		DESIGN					80
		CONSTRUCTION					428
		EQUIPMENT					1

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
TOTAL FUNDING			AGS		C		509C
<b>UOH700 - UNIVERSITY OF HAWAII AT WEST OAHU</b>							
115.	706	UHWO, RELOCATION OF TEMPORARY FACILITIES, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RELOCATION AND RENOVATION OF TEMPORARY FACILITIES FROM THE KAPIOLANI COMMUNITY COLLEGE TO LEEWARD COMMUNITY COLLEGE. PROJECT TO INCLUDE RELATED INFRASTRUCTURE REQUIREMENTS FOR LEEWARD COMMUNITY COLLEGE. PROJECT MAY INCLUDE GROUND AND SITE IMPROVEMENTS AT KAPIOLANI COMMUNITY COLLEGE.					
		DESIGN				1	
		CONSTRUCTION				331	
		EQUIPMENT				1	
		TOTAL FUNDING	AGS			333C	C
<b>UOH800 - UH - COMMUNITY COLLEGES</b>							
116.	M81	MAU, MOLOKAI EDUCATIONAL CENTER, MOLOKAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE PERMANENT CAMPUS OF THE MOLOKAI EDUCATIONAL CENTER. PROJECT TO INCLUDE NEW FACILITIES, SITE WORK, UTILITIES, RELATED EQUIPMENT, AND OTHER RELATED WORK.					
		DESIGN				213	
		CONSTRUCTION				3,655	
		EQUIPMENT				858	
		TOTAL FUNDING	UOH			4,726C	C
117.	477	HAW, WEST HAWAII EDUCATIONAL CENTER, PERMANENT CAMPUS DEVELOPMENT, HAWAII					
		PLANS AND DESIGN FOR THE PERMANENT CAMPUS OF THE WEST HAWAII EDUCATION CENTER. PROJECT TO INCLUDE NEW FACILITIES, SITE WORK, UTILITIES, AND OTHER RELATED WORK.					
		PLANS				100	
		DESIGN				630	
		TOTAL FUNDING	UOH			730C	C
118.	K-54	KAU, CAMPUS DEVELOPMENT, KAUAI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR NEW FACILITIES AT KAUAI COMMUNITY COLLEGE INCLUDING SITE WORK, UTILITIES, BUILDINGS, RENOVATIONS, AND ADDITIONS TO EXISTING FACILITIES.					
		DESIGN				661	
		CONSTRUCTION					9,288
		EQUIPMENT					1,431
		TOTAL FUNDING	AGS			661C	10,719C



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
119.	M100	MAU, CAMPUS DEVELOPMENT, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR NEW FACILITIES AT MAUI COMMUNITY COLLEGE INCLUDING SITE WORK, UTILITIES, BUILDINGS, AND RENOVATION TO EXISTING FACILITIES.					
		DESIGN			1		1
		CONSTRUCTION		14,257			1
		EQUIPMENT		1,171		3,781	
		TOTAL FUNDING	AGS	15,429C		3,783C	
120.	W100	WIN, CAMPUS DEVELOPMENT, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR NEW FACILITIES AT WINDWARD COMMUNITY COLLEGE INCLUDING SITE WORK, UTILITIES, AND RENOVATIONS TO EXISTING FACILITIES.					
		DESIGN			420		1
		CONSTRUCTION		5,524		15,578	
		EQUIPMENT		1		2,551	
		TOTAL FUNDING	AGS	5,945C		18,130C	
121.	A28	HON, MARINE PROPULSION FACILITY, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR A MARINE PROPULSION FACILITY FOR HONOLULU COMMUNITY COLLEGE.					
		PLANS			1		
		DESIGN			98		
		CONSTRUCTION			1		
		TOTAL FUNDING	AGS		100C		C
122.	H01	HAW, CAMPUS DEVELOPMENT, HAWAII					
		PLANS FOR THE MASTER PLANNING AND FEASIBILITY STUDY OF THE HAWAII COMMUNITY COLLEGE TO RELOCATE FROM THE PRESENT UNIVERSITY OF HAWAII AT HILO SITE TO A POSSIBLE DOWNTOWN HILO SITE.					
		PLANS			100		
		TOTAL FUNDING	UOH		100C		C
<b>UOH900 - UOH, SYSTEM WIDE SUPPORT</b>							
123.	503	SYS, LAND ACQUISITION AND MAJOR CIP PLANNING, STATEWIDE					
		PLANS AND LAND ACQUISITION FOR LONG RANGE DEVELOPMENT PLANS, INCLUDING UPDATES OF LONG RANGE DEVELOPMENT PLANS FOR VARIOUS UNIVERSITY CAMPUSES, PROJECT DEVELOPMENT REPORTS, AND LAND ACQUISITION FOR UNIVERSITY PROGRAMS.					
		PLANS			1,800		800
		LAND			1		
		TOTAL FUNDING	UOH		1,801C		800C
124.	511	SYS, UNIVERSITY OF HAWAII BOOKSTORES, STATEWIDE					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR RENOVATIONS AND IMPROVEMENTS TO UNIVERSITY OF HAWAII BOOKSTORES, SYSTEMWIDE.					
		PLANS			1		
		DESIGN			1		
		CONSTRUCTION			497		
		EQUIPMENT			1		
		TOTAL FUNDING	UOH		500W		W
125.	521	SYS, INFRASTRUCTURE IMPROVEMENTS, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR UTILITY INFRASTRUCTURE IMPROVEMENTS AND RELATED FACILITIES FOR UNIVERSITY CAMPUSES, SYSTEMWIDE.					
		DESIGN			691		
		CONSTRUCTION			4,407		5,409
		EQUIPMENT			3		200
		TOTAL FUNDING	AGS		5,101C		5,609C
126.	531	SYS, MODIFICATIONS FOR THE HANDICAPPED, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT, FOR MODIFICATIONS FOR THE HANDICAPPED TO IDENTIFY AND CORRECT EXISTING ARCHITECTURAL BARRIERS AT ALL UNIVERSITY CAMPUSES, EXTENSION SITES, AND OTHER RELATED FACILITIES.					
		DESIGN			100		100
		CONSTRUCTION			5,000		5,000
		EQUIPMENT			1		1
		TOTAL FUNDING	AGS		5,101C		5,101C
127.	536	SYS, HEALTH, SAFETY, AND CODE REQUIREMENTS, STATEWIDE					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR MODIFICATIONS TO EXISTING FACILITIES AND/OR CONSTRUCTION OF NEW FACILITIES FOR HEALTH, SAFETY, AND OTHER CODE REQUIREMENTS.					
		PLANS			1		1
		DESIGN			364		92
		CONSTRUCTION			6,719		1,081
		EQUIPMENT			1		1
		TOTAL FUNDING	AGS		7,085C		1,175C
128.	537	SYS, FIRE SAFETY IMPROVEMENTS, STATEWIDE					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR FIRE SAFETY SYSTEMS. THE PROJECT MAY INCLUDE FIRE ALARM SYSTEMS, FIRE DETECTION SYSTEMS, FIRE SPRINKLER SYSTEMS, AND CENTRAL FIRE ALARM SYSTEMS ON UNIVERSITY CAMPUSES AND FACILITIES, STATEWIDE.					
		PLANS			1		
		DESIGN			263		
		CONSTRUCTION			2,431		1,030
		EQUIPMENT			1		

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	AGS	2,696C		1,030C	
129.	539	SYS, HAWAII INTERACTIVE TELEVISION SYSTEM (HITS), STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE UPGRADE AND MODERNIZATION OF THE HAWAII INTERACTIVE TELEVISION SYSTEM (HITS), STATEWIDE. PROJECT TO INCLUDE UPGRADING MICROWAVE DISHES, ASSOCIATED TOWER STRENGTHENING, EQUIPMENT UPGRADES, OTHER NECESSARY IMPROVEMENTS, AND/OR ANY ALTERNATIVE EXPENDITURE WHICH WILL PROVIDE EQUIVALENT SERVICES STATEWIDE FOR THE EXPECTED LIFETIME OF AN UPGRADED MICROWAVE SYSTEM.					
		DESIGN			1		
		CONSTRUCTION			600		
		EQUIPMENT			2,399		
		TOTAL FUNDING	UOH	3,000C			C
130.	540	SYS, RENOVATION OF CLASSROOMS, LABS, AND OTHER RELATED SPACES, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE MODERNIZATION AND IMPROVEMENT OF CLASSROOMS, LABORATORIES, OFFICES, AND RELATED SPACES TO PROVIDE SAFER, MORE CONDUCTIVE TEACHING AND LEARNING ENVIRONMENTS FOR THE STUDENTS, FACULTY, AND STAFF.					
		DESIGN			200		
		CONSTRUCTION			2,700		
		EQUIPMENT			100		
		TOTAL FUNDING	UOH	3,000C			C
131.	541	SYS, FACILITIES IMPROVEMENTS, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENEWAL AND RENOVATION OF THE UNIVERSITY'S PHYSICAL PLANT. PROJECT INCLUDES REROOFING, MECHANICAL, ELECTRICAL SYSTEMS, OTHER RELATED REPAIRS, AND ASSOCIATED PROJECT COSTS.					
		DESIGN			1,500		1
		CONSTRUCTION			13,006		5,710
		EQUIPMENT			1		1
		TOTAL FUNDING	UOH	14,507C			5,712C
131A.		SYS, FIBER OPTIC CABLE, STATEWIDE					
		EQUIPMENT FOR THE ACQUISITION AND PARTIAL OWNERSHIP OF A HAWAII-CONTINENTAL UNITED STATES FIBER OPTIC CABLE SYSTEM.					
		EQUIPMENT					5,000
		TOTAL FUNDING	UOH			C	5,000C

H. CULTURE AND RECREATION

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
<b>LNR806 - PARK DEVELOPMENT AND OPERATION</b>							
1.	F11	IOLANI PALACE RESTORATION, OAHU					
		DESIGN AND CONSTRUCTION FOR CLIMATE CONTROL IMPROVEMENTS.					
		DESIGN				25	
		CONSTRUCTION				150	
		TOTAL FUNDING	LNR			175C	C
2.	F14	KEALAKEKUA BAY STATE HISTORICAL PARK, HAWAII					
		DESIGN AND CONSTRUCTION FOR PHASE I DEVELOPMENT INCLUDING PARKING, RESTROOMS, AND OTHER DEVELOPMENT IN THE NAPOOPOO AREA OF KAAWALOA.					
		DESIGN				50	
		CONSTRUCTION					500
		TOTAL FUNDING	LNR			50C	500C
3.	F15	ROYAL MAUSOLEUM STATE MONUMENT, OAHU					
		DESIGN AND CONSTRUCTION OF HOUSE, RESTROOM, UTILITY SYSTEM, AND IMPROVEMENTS TO DRIVEWAY AND LANDSCAPING.					
		DESIGN				25	
		CONSTRUCTION					250
		TOTAL FUNDING	LNR			25C	250C
4.	F37	DIAMOND HEAD STATE MONUMENT, OAHU					
		PLANS AND DESIGN FOR THE INCREMENTAL DEVELOPMENT AS DETERMINED BY EXISTING NEEDS AND A MASTER PLAN. DEVELOPMENT TO INCLUDE A VISITORS CENTER.					
		PLANS				250	
		DESIGN				750	
		TOTAL FUNDING	LNR			1,000C	C
5.	F46	KOKEE/WAIMEA CANYON STATE PARK COMPLEX, KAUAI					
		DESIGN AND CONSTRUCTION FOR RECONSTRUCTION OF WAIMEA CANYON LOOKOUT INCLUDING NEW TOILET FACILITIES, PARKING AREAS, WALKWAYS, AND LANDSCAPING.					
		DESIGN				40	
		CONSTRUCTION					400
		TOTAL FUNDING	LNR			40C	400C
6.	F48	KEAIWA HEIAU STATE RECREATION AREA, OAHU					
		DESIGN AND CONSTRUCTION FOR RECONSTRUCTION OF PAVILION, COMFORT STATION, WATER TANK, AND ROADWAY IMPROVEMENTS.					
		DESIGN					40
		CONSTRUCTION					400

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	LNR		C		440C
7.	F57	KAHANA VALLEY STATE PARK, OAHU					
		DESIGN AND CONSTRUCTION FOR THE INCREMENTAL DEVELOPMENT OF A "LIVING PARK" WITH VALLEY RESIDENTS; DEMOLITION OF FORMER HOMES; RESTORATION OF SITE OF FORMER HOMES FOR DEVELOPED PARK EXPANSION ALONG ESTUARY; AND BEACH PARK AREA IMPROVEMENTS.					
		DESIGN				50	
		CONSTRUCTION				500	
		TOTAL FUNDING	LNR			450C	C
			LNR			100N	N
8.	F58	WAILOA RIVER STATE RECREATION AREA, HAWAII					
		DESIGN AND CONSTRUCTION OF ROADWAY, PARKING AREAS, SIDEWALKS, AND COVERED WALKWAYS INCLUDING LIGHTING.					
		DESIGN					40
		CONSTRUCTION					350
		TOTAL FUNDING	LNR		C		390C
9.	F59	KAUMAHINA STATE WAYSIDE, MAUI					
		DESIGN AND CONSTRUCTION OF WALKWAY, SCENIC LOOKOUT, AND OTHER IMPROVEMENTS AT KAUMAHINA STATE WAYSIDE IN HANA.					
		DESIGN				30	
		CONSTRUCTION				200	
		TOTAL FUNDING	LNR			230C	C
10.	F64	MAUNA KEA STATE RECREATION COMPLEX, HAWAII					
		DESIGN AND CONSTRUCTION FOR RECONSTRUCTION OF CABINS AND OTHER IMPROVEMENTS.					
		DESIGN				50	
		CONSTRUCTION				400	
		TOTAL FUNDING	LNR			450C	C
11.	F72	KAENA POINT STATE PARK, OAHU					
		DESIGN AND CONSTRUCTION FOR THE SHORELINE PARK FROM MAKUA TO MOKULEIA INCLUDING RECONSTRUCTION OF EXISTING FACILITIES. PROJECT TO INCLUDE TEMPORARY MANAGEMENT FOR SHORELINE AREAS TO CONTROL EXISTING USE, INCLUDES MAKUA SECURITY RESIDENCE AND OTHER IMPROVEMENTS FOR THIS AREA.					
		DESIGN				40	
		CONSTRUCTION				400	
		TOTAL FUNDING	LNR			440C	C
12.	F73	MAKENA-LAPEROUSE STATE PARK, MAUI					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN AND CONSTRUCTION OF A SECURITY RESIDENCE AND OTHER IMPROVEMENTS.					
		DESIGN		25			
		CONSTRUCTION		250			
		TOTAL FUNDING	LNR	275C			C
13.	F74	HAENA BEACH STATE PARK, KAUAI					
		DESIGN AND CONSTRUCTION FOR A SEWAGE SYSTEM, PARKING AREA, AND OTHER IMPROVEMENTS.					
		DESIGN		30			
		CONSTRUCTION		250			
		TOTAL FUNDING	LNR	280C			C
14.	F75	HAPUNA BEACH STATE PARK, HAWAII					
		DESIGN AND CONSTRUCTION FOR INITIAL DEVELOPMENT AT WAILEA BAY AND GENERAL PARK IMPROVEMENTS.					
		DESIGN		50			
		CONSTRUCTION				500	
		TOTAL FUNDING	LNR	50C		500C	
15.	H06	IMPROVEMENTS TO CABINS AND CAMPGROUNDS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO CABINS AND CAMPGROUNDS AT SELECTED STATE PARKS.					
		DESIGN		25		25	
		CONSTRUCTION		250		250	
		TOTAL FUNDING	LNR	275C		275C	
16.	H09	LANDSCAPING AND PARK IMPROVEMENTS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS AND RENOVATIONS TO PARK GROUNDS AND FACILITIES FOR HEALTH AND SAFETY; INCLUDING FACILITIES TO AID THE HANDICAPPED.					
		DESIGN		150		150	
		CONSTRUCTION		1,000		1,000	
		TOTAL FUNDING	LNR	1,150C		1,150C	
17.	H45	SACRED FALLS STATE PARK, OAHU					
		DESIGN AND CONSTRUCTION OF PAVED ENTRY ROAD, PARKING AREA, GATES, AND OTHER RELATED IMPROVEMENTS.					
		DESIGN		30			
		CONSTRUCTION		250			
		TOTAL FUNDING	LNR	280C			C
18.	H87	KONA COAST STATE PARK, HAWAII					
		DESIGN AND CONSTRUCTION OF TOILET FACILITIES, PAVILION, AND PICNIC AREAS.					
		DESIGN		40			
		CONSTRUCTION		300			

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	LNR	340C			C
19.	F37X	DIAMOND HEAD SUMMIT TRAIL, OAHU					
		DESIGN AND CONSTRUCTION FOR RECONSTRUCTION OF SUMMIT TRAIL, LANDSCAPING, ADDITIONAL PARKING, AND WALKWAY IMPROVEMENTS.					
		DESIGN		40			
		CONSTRUCTION		300			
		TOTAL FUNDING	LNR	340C			C
20.	F57X	KAHANA VALLEY STATE PARK, OAHU					
		DESIGN AND CONSTRUCTION FOR RECONSTRUCTION OF THREE COMFORT STATIONS, PARK ORIENTATION/MAINTENANCE FACILITY, AND PAVED PARKING AREAS.					
		DESIGN		60			
		CONSTRUCTION		500			
		TOTAL FUNDING	LNR	560C			C
21.	F59X	PUAA KAA STATE WAYSIDE, MAUI					
		DESIGN AND CONSTRUCTION OF WALKWAYS, PAVILIONS, AND PICNIC IMPROVEMENTS.					
		DESIGN					30
		CONSTRUCTION					200
		TOTAL FUNDING	LNR		C		230C
22.	F73X	MAKENA STATE PARK, MAUI					
		DESIGN AND CONSTRUCTION OF COMFORT STATIONS.					
		DESIGN		60			
		CONSTRUCTION					600
		TOTAL FUNDING	LNR	60C			600C
23.	F09	AHUKINI STATE RECREATIONAL PIER, KAUAI					
		DESIGN AND CONSTRUCTION FOR A SELF COMPOSTING TOILET FACILITY AND ASSOCIATED UTILITIES AS NEEDED.					
		DESIGN		40			
		CONSTRUCTION					200
		TOTAL FUNDING	LNR	40C			200C
24.	F54	WAILUA RIVER STATE PARK, KAUAI					
		DESIGN AND CONSTRUCTION FOR A NEW LOOKOUT AT OPAEKAA FALLS INCLUDING HANDICAP IMPROVEMENTS AND A NEW COMFORT STATION.					
		DESIGN		50			
		CONSTRUCTION					400
		TOTAL FUNDING	LNR	50C			400C
25.	F55	WAIANAPANAPA STATE PARK, MAUI					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN AND CONSTRUCTION OF RENTAL CABINS, PICNIC SHELTERS, AND OTHER PARK IMPROVEMENTS.					
		DESIGN			50		
		CONSTRUCTION					250
		TOTAL FUNDING	LNR		50C		250C
26.	F64	SAND ISLAND STATE RECREATION AREA, OAHU					
		DESIGN AND CONSTRUCTION OF PARK DEVELOPMENT PER MASTER PLAN AND IMPROVEMENTS TO PARK INFRASTRUCTURE.					
		DESIGN			60		
		CONSTRUCTION					400
		TOTAL FUNDING	LNR		60C		400C
27.	F50	WAHIAWA FRESHWATER PARK, OAHU					
		DESIGN AND CONSTRUCTION FOR A JOGGING/BIKE PATH AT WAHIAWA FRESHWATER PARK.					
		DESIGN			1		
		CONSTRUCTION			249		
		TOTAL FUNDING	LNR		250C		C
27A.	H70	MALAEKAHANA STATE RECREATION AREA, OAHU					
		PLANS FOR ENVIRONMENTAL IMPACT STATEMENT (EIS) FOR PARK DEVELOPMENT, INCLUDING THE KAHUKU SECTION OF THE PARK.					
		PLANS					100
		TOTAL FUNDING	LNR			C	100C
27B.		KALIHI VALLEY STATE PARK, OAHU					
		PLANS FOR MASTER PLAN AND ENVIRONMENTAL IMPACT STATEMENT FOR A NEW KALIHI VALLEY STATE PARK.					
		PLANS					200
		TOTAL FUNDING	AGS			C	200C
27C.		WAHIAWA FRESHWATER PARK MASTER PLAN, OAHU					
		PLANS FOR DEVELOPMENT OF A WAHIAWA FRESHWATER PARK MASTER PLAN UPDATE.					
		PLANS					250
		TOTAL FUNDING	LNR			C	250C
<b>LNR801 - OCEAN-BASED RECREATION</b>							
28.	271A	ALA WAI BOAT HARBOR FLOATING DOCKS REPLACEMENT, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR THE REPLACEMENT OF FLOATING DOCKS B, C, D, F, AND G.					
		PLANS			3		
		DESIGN			97		
		CONSTRUCTION					900
		TOTAL FUNDING	LNR		100D		900D



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
29.	271B	ALA WAI BOAT HARBOR PIER REPLACEMENT, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR REPLACEMENT, IMPROVEMENT, AND UPGRADE OF EXISTING PIERS INCLUDING THE CROSS DOCK.					
		PLANS			6		
		DESIGN			144		
		CONSTRUCTION					600
		TOTAL FUNDING	LNR		150D		600D
30.	278B	HEEIA KEA BOAT HARBOR COMFORT STATION, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION OF A NEW COMFORT STATION AND RELATED WORK AT HEEIA BOAT HARBOR. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL MATCHING FUNDS UNDER THE FEDERAL AID IN SPORT FISHING RESTORATION ACT.					
		PLANS			30		
		DESIGN			30		
		CONSTRUCTION			300		
		TOTAL FUNDING	LNR		90D		D
			LNR		270N		N
31.	299A	PLANNING FOR BOAT HARBOR FACILITIES, STATEWIDE					
		PLANS FOR CONTINUED STUDIES, RESEARCH, AND ADVANCED PLANNING OF BOAT HARBOR FACILITIES ON ALL ISLANDS.					
		PLANS			125		125
		TOTAL FUNDING	LNR		125D		125D
32.	299B	IMPROVEMENTS TO BOAT HARBOR FACILITIES, STATEWIDE					
		PLANS, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS AT VARIOUS EXISTING BOAT HARBOR FACILITIES THROUGHOUT THE STATE INCLUDING DREDGING, PAVING, UTILITIES, AND OTHER BERTHING AND SHORE FACILITIES INCLUDING ADMINISTRATIVE OFFICES.					
		PLANS			30		30
		DESIGN			30		30
		CONSTRUCTION			240		240
		TOTAL FUNDING	LNR		300D		300D
33.	P97088	DAY USE MOORING BUOYS, STATEWIDE					
		DESIGN AND EQUIPMENT FOR DAY USE MOORING BUOYS.					
		DESIGN			1		
		EQUIPMENT			32		
		TOTAL FUNDING	LNR		33D		D
34.	282A	KUHIO BEACH IMPROVEMENTS, OAHU					
		PLANS AND DESIGN FOR NEW AND/OR MODIFICATIONS TO EXISTING SEAWALLS FRONTING KUHIO BEACH BETWEEN KAPAHULU AVENUE AND LILIUOKALANI AVENUE.					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS DESIGN					300
		TOTAL FUNDING	LNR		C		400
							700C
35.	207A	KAILUA-KONA WHARF IMPROVEMENTS, HAWAII					
		PLANS AND DESIGN FOR THE RENOVATION OF AND IMPROVEMENTS TO THE KAILUA-KONA WHARF.					
		PLANS DESIGN					60
		TOTAL FUNDING	LNR				200
							260C
35A.	299	IMPROVEMENTS AT SMALL BOAT FACILITIES, STATEWIDE					
		PLANS, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS AT VARIOUS BOATING FACILITIES. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS DESIGN					100
		CONSTRUCTION					100
		TOTAL FUNDING	LNR		D		810
			LNR		N		252D
							758N
<b>AGS889 - SPECTATOR EVENTS &amp; SHOWS - ALOHA STADIUM</b>							
35B.	980001	ALOHA STADIUM, REPLACE DISTRIBUTION CABLES AND MODIFY SWITCHGEAR, OAHU					
		DESIGN AND CONSTRUCTION TO REPLACE ABOVE GROUND AND UNDERGROUND PRIMARY LOOP CABLES; MODIFY, CLEAN, AND SERVICE PRIMARY SWITCHGEAR; SHIELD MECHANICAL PIPES IN ELECTRICAL ROOMS; UPGRADE MECHANICAL VENTILATION SYSTEM; AND APPLY ELASTOMETRIC COATING AT VARIOUS LOCATIONS.					
		DESIGN					150
		CONSTRUCTION					1,400
		TOTAL FUNDING	AGS		B		1,550B
35C.	980002	ALOHA STADIUM, EMERGENCY GENERATOR AND DISTRIBUTION CABLES, OAHU					
		DESIGN AND CONSTRUCTION TO REPLACE ARTIFICIAL PLAYING SURFACE AND PAD, AND PERFORM RELATED REPAIRS ON WARNING TRACK AND SUPPORTING FOUNDATION.					
		DESIGN					85
		CONSTRUCTION					815
		TOTAL FUNDING	AGS		B		900B
35D.	980003	ALOHA STADIUM, IMPROVEMENTS TO ARTIFICIAL PLAYING SURFACE, OAHU					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN AND CONSTRUCTION TO REPLACE ARTIFICIAL PLAYING SURFACE AND PAD, AND PERFORM RELATED REPAIRS ON WARNING TRACK AND SUPPORTING FOUNDATION.					
		DESIGN					250
		CONSTRUCTION					2,250
		TOTAL FUNDING	AGS		B		2,500B
<b>LNR807 - PARK INTERPRETATION</b>							
36.	F02B	STATEWIDE INTERPRETIVE PROGRAM DEVELOPMENT, STATEWIDE PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A SERIES OF INTERPRETIVE SIGNS AND SIGN KIOSKS IN SELECTED STATE PARKS.					
		PLANS		10			10
		DESIGN		10			10
		CONSTRUCTION		40			70
		EQUIPMENT					10
		TOTAL FUNDING	LNR	60B			100B
37.	F37B	DIAMOND HEAD STATE MONUMENT, OAHU DESIGN AND CONSTRUCTION FOR INTERPRETIVE DEVELOPMENT FOR DIAMOND HEAD INCLUDING A TOLL/INFORMATION CENTER AND LANDSCAPING.					
		DESIGN		25			
		CONSTRUCTION		250			
		TOTAL FUNDING	LNR	275B			B
38.	F74B	HAENA STATE PARK, KAUAI PLANS, DESIGN, AND CONSTRUCTION TO DEVELOP AN INTERPRETIVE PROGRAM INCLUDING THE RESTORATION OF TARO LO'I.					
		PLANS					20
		DESIGN					30
		CONSTRUCTION					200
		TOTAL FUNDING	LNR		B		250B
39.	H70B	MALAEKAHANA STATE PARK, OAHU DESIGN AND CONSTRUCTION TO RENOVATE AND DEVELOP AN UNDERUTILIZED PAVILION INTO AN INTERPRETIVE CENTER.					
		DESIGN		20			
		CONSTRUCTION					200
		TOTAL FUNDING	LNR	20B			200B
40.	H87B	KONA COAST STATE PARK, HAWAII DESIGN AND CONSTRUCTION TO DEVELOP AN EDUCATION CENTER, OTHER INTERPRETIVE FACILITIES, AND INTERPRETIVE PROGRAM MATERIALS FOR THE MAHAIULA BAY SECTION OF THE PARK.					
		DESIGN		30			
		CONSTRUCTION		300			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	LNR			330B	B
<b>LNR809 - PARKS ADMINISTRATION</b>							
41.	P97088	MANA DRAG STRIP RACE TRACK, KAUAI					
		PLANS, DESIGN, AND CONSTRUCTION FOR THE RESURFACING AND RENOVATION OF THE MANA DRAG STRIP RACE TRACK ASPHALT SURFACE; GROUND AND SITE IMPROVEMENTS.					
		PLANS				1	
		DESIGN				34	
		CONSTRUCTION				150	
		TOTAL FUNDING	LNR			185C	C
<b>I. PUBLIC SAFETY</b>							
<b>PSD403 - KULANI CORRECTIONAL FACILITY</b>							
2.	P98060	KULANI CORRECTIONAL FACILITY, WATER SYSTEM IMPROVEMENTS, HAWAII					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS TO THE WATER SYSTEM TO INCREASE WATER COLLECTION AND STORAGE CAPACITIES.					
		DESIGN				144	
		CONSTRUCTION				2,190	
		TOTAL FUNDING	AGS			2,334C	C
3.	P98063	KULANI CORRECTIONAL FACILITY, EXPANSION AND IMPROVEMENTS, HAWAII					
		PLANS AND DESIGN FOR THE DEVELOPMENT OF INFRASTRUCTURE AND SITEWORK TO PROVIDE FOR A MAJOR EXPANSION AT THE FACILITY SITE.					
		PLANS				525	
		DESIGN				775	
		TOTAL FUNDING	AGS			1,300C	C
<b>PSD404 - WAIAWA CORRECTIONAL FACILITY</b>							
4.	P98057	WAIAWA CORRECTIONAL FACILITY, NEW 200-BED "KASHBOX" COMPOUND, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT TO CONSTRUCT A NEW 200-BED MINIMUM DORMITORY, RELATED SUPPORT SPACES, AND SITE WORK FOR THE "KASHBOX" SUBSTANCE ABUSE PROGRAM.					
		DESIGN				219	
		CONSTRUCTION				3,293	
		EQUIPMENT				260	
		TOTAL FUNDING	AGS			1,913C	C
			AGS			1,859N	N
<b>PSD405 - HAWAII COMMUNITY CORRECTIONAL CENTER</b>							

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
5.	P98059	HAWAII COMMUNITY CORRECTIONAL CENTER, PERIMETER FENCING SYSTEM, HAWAII					
		DESIGN AND CONSTRUCTION TO CONSTRUCT NEW PERIMETER FENCING SYSTEM AROUND THE FACILITY COMPLEX.					
		DESIGN				55	
		CONSTRUCTION				534	
		TOTAL FUNDING	AGS			589C	C
<b>PSD407 - OAHU COMMUNITY CORRECTIONAL CENTER</b>							
6.	P97029	OAHU COMMUNITY CORRECTIONAL CENTER, PLAN REVIEW USE IMPROVEMENTS, OAHU					
		DESIGN AND CONSTRUCTION FOR MISCELLANEOUS SITE IMPROVEMENTS AT THE LAUMAKA WORK RELEASE CENTER TO SATISFY PRU OBLIGATIONS TO COUNCIL RESOLUTION NO. 94-367.					
		DESIGN				39	
		CONSTRUCTION				383	
		TOTAL FUNDING	AGS			422C	C
7.	P98056	OAHU COMMUNITY CORRECTIONAL CENTER, ADDITIONS AND RENOVATIONS, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT TO DEVELOP NEW HOUSING FOR 168 INMATES. ALSO, CONVERT EXISTING BUILDINGS AT OCCC TO HOUSE 116 INMATES AND PROVIDE NECESSARY IMPROVEMENTS TO INFRASTRUCTURE AND FACILITY.					
		DESIGN				213	
		CONSTRUCTION				3,461	
		EQUIPMENT				270	
		TOTAL FUNDING	AGS			3,944C	C
<b>PSD409 - WOMEN'S COMMUNITY CORRECTIONAL CENTER</b>							
8.	P98055	WOMEN'S COMMUNITY CORRECTIONAL CENTER, ADDITIONS AND RENOVATIONS, OAHU					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR AN 84-BED MINIMUM DORMITORY FOR INCARCERATED FEMALES BETWEEN KAALA AND MAUNAWILI COTTAGES. RELOCATE PORTABLE CLASSROOM BUILDINGS AND PROVIDE FOR NECESSARY IMPROVEMENTS TO INFRASTRUCTURE AND FACILITY.					
		DESIGN				130	
		CONSTRUCTION				1,864	
		EQUIPMENT				110	
		TOTAL FUNDING	AGS			2,104C	C
<b>PSD900 - GENERAL ADMINISTRATION</b>							
9.	P98601	GENERAL ADMINISTRATION, NEW PRISON FACILITIES, STATEWIDE					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR SITE DEVELOPMENT AND FURNISHINGS OF NEW PRISON FACILITIES VIA NORMAL DESIGN/ CONSTRUCT METHOD, PURCHASE, LEASE/BACK PURCHASE OPTION AGREEMENT, AND/OR DESIGN/BUILD PROCESS. PLANNING MAY INCLUDE A COMMUNITY PARTNERING PROCESS AND DEVELOPMENT OF A BENEFIT/ ENHANCEMENT PACKAGE. FUNDS MAY BE USED TO MATCH FEDERAL FUNDS, AS MAY BE AVAILABLE.					
		PLANS		496			2,200
		LAND		1			
		DESIGN		1			
		CONSTRUCTION		1			
		EQUIPMENT		1			
		TOTAL FUNDING	AGS	500C			2,200C
<b>LNR810 - PREVENTION OF NATURAL DISASTERS</b>							
10.	G38	KAHULUI FLOOD CONTROL PROJECT, MAUI					
		PLANS AND DESIGN FOR DRAINAGE IMPROVEMENTS ON THE EASTERN BOUNDARY OF KANAHA POND.					
		PLANS		100			
		DESIGN		100			
		TOTAL FUNDING	LNR	200C			C
11.	G83A	ALA WAI CANAL FLOOD STUDY, OAHU					
		PLANS TO STUDY AND DETERMINE HYDRAULIC CAPACITY AND WATER SURFACE ELEVATIONS AT VARIOUS FLOOD FLOWS WITHIN THE ALA WAI CANAL, ESTIMATE POTENTIAL FLOOD DAMAGES AND MITIGATIVE MEASURES. USE OF FUNDS ARE CONTINGENT UPON FEDERAL MATCHING. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS		400			
		TOTAL FUNDING	LNR	200C			C
			LNR	200N			N
12.	G85A	LOWER KAPAHI RESERVOIR IMPROVEMENTS, KAUAI					
		PLANS, DESIGN, AND CONSTRUCTION FOR IMPROVEMENTS TO LOWER KAPAHI RESERVOIR'S OUTLET STRUCTURE TO HANDLE STORM FLOWS.					
		PLANS		10			
		DESIGN		10			
		CONSTRUCTION		100			
		TOTAL FUNDING	LNR	120C			C
13.		WAIMANALO VALLEY DRAINAGE MASTER PLAN, OAHU					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS FOR WAIMANALO VALLEY DRAINAGE MASTER PLAN TO IDENTIFY MITIGATIVE MEASURES TO ALLEVIATE FLOODING.					
		PLANS				300	
		TOTAL FUNDING	LNR			75C	C
			LNR			225N	N
14.	G83BEG	ALA WAI CANAL DREDGING, KAPAHULU LIBRARY TO ALA WAI BOAT HARBOR, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR DREDGING OF ALA WAI CANAL BETWEEN ALA WAI BOAT HARBOR AND KAPAHULU LIBRARY TO REMOVE SEDIMENTATION BUILD-UP AND RESTORE HYDRAULIC CAPACITY.					
		PLANS				250	
		DESIGN				1,000	
		CONSTRUCTION					10,350
		TOTAL FUNDING	LNR			1,250C	10,350C
15.		KAUKONAHOA STREAM DREDGING, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION FOR THE DREDGING OF KAUKONAHOA STREAM IN THE VICINITY OF FARRINGTON HIGHWAY TO PREVENT EROSION AND FLOODING. PROJECT TO INCLUDE RENOVATION AND OTHER NECESSARY IMPROVEMENTS TO THE STREAM.					
		PLANS				1	
		DESIGN				49	
		CONSTRUCTION				450	
		TOTAL FUNDING	LNR			500C	C
15A.	G84A	HALAMA STREET BEACH NOURISHMENT/ RESTORATION, MAUI					
		PLANS TO RESTORE THE HALAMA STREET SHORELINE IN KIHEL, MAUI, THROUGH BEACH NOURISHMENT AND TO PROVIDE FOR ADDITIONAL SHORE PROTECTION AGAINST FLOODING AND COASTAL EROSION. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS					300
		TOTAL FUNDING	LNR			C	75C
			LNR			N	225N
15B.	G84B	HONOLUA MASTER STORMWATER DRAINAGE PLAN, MAUI					
		PLANS TO DETERMINE SPECIFIC MITIGATIVE MEASURES FOR THE CONTROL OF STORM DRAINAGE AND THE REDUCTION OF REPETITIVE FLOODING IN THE AREA. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS					60
		TOTAL FUNDING	LNR			C	15C
			LNR			N	45N

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
15C.	G83B	HALEIWA MASTER STORMWATER DRAINAGE PLAN, OAHU					
		PLANS TO DETERMINE SPECIFIC MITIGATIVE MEASURES FOR THE CONTROL OF STORM DRAINAGE AND THE REDUCTION OF REPETITIVE FLOODING IN THE AREA. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					60
		PLANS					15C
		TOTAL FUNDING	LNR		C		45N
			LNR		N		
15D.	G83C	LAIE MASTER STORMWATER DRAINAGE PLAN, OAHU					
		PLANS TO DETERMINE SPECIFIC MITIGATIVE MEASURES FOR THE CONTROL OF STORM DRAINAGE AND THE REDUCTION OF REPETITIVE FLOODING IN THE AREA. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					60
		PLANS					15C
		TOTAL FUNDING	LNR		C		45N
			LNR		N		
15E.	G83D	MAKAHA MASTER STORMWATER DRAINAGE PLAN, OAHU					
		PLANS TO DETERMINE SPECIFIC MITIGATIVE MEASURES FOR THE CONTROL OF STORM DRAINAGE AND THE REDUCTION OF REPETITIVE FLOODING IN THE AREA. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					60
		PLANS					15C
		TOTAL FUNDING	LNR		C		45N
			LNR		N		
15F.	G82A	NORTH KONA MASTER STORMWATER DRAINAGE PLAN, HAWAII					
		PLANS TO DETERMINE SPECIFIC MITIGATIVE MEASURES FOR THE CONTROL OF STORM DRAINAGE AND THE REDUCTION OF REPETITIVE FLOODING IN THE AREA. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					60
		PLANS					15C
		TOTAL FUNDING	LNR		C		45N
			LNR		N		
15G.	G825	SOUTH HILO MASTER STORMWATER PLAN, HAWAII					



## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS TO DETERMINE SPECIFIC MITIGATIVE MEASURES FOR THE CONTROL OF STORM DRAINAGE AND THE REDUCTION OF REPETITIVE FLOODING IN THE AREA. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS					60
		TOTAL FUNDING	LNR		C		15C
			LNR		N		45N
15H.	G85A	HANALEI MASTER STORMWATER DRAINAGE PLAN, KAUAI					
		PLANS TO DETERMINE SPECIFIC MITIGATIVE MEASURES FOR THE CONTROL OF STORM DRAINAGE AND THE REDUCTION OF REPETITIVE FLOODING IN THE AREA. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS					60
		TOTAL FUNDING	LNR		C		15C
			LNR		N		45N
15I.	G85B	LIHUE-NAWILIWILI MASTER STORMWATER DRAINAGE PLAN, KAUAI					
		PLANS TO DETERMINE SPECIFIC MITIGATIVE MEASURES FOR THE CONTROL OF STORM DRAINAGE AND THE REDUCTION OF REPETITIVE FLOODING IN THE AREA. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS					60
		TOTAL FUNDING	LNR		C		15C
			LNR		N		45N
15I.	G85B	LIHUE-NAWILIWILI MASTER STORMWATER DRAINAGE PLAN, KAUAI					
		PLANS TO DETERMINE SPECIFIC MITIGATIVE MEASURES FOR THE CONTROL OF STORM DRAINAGE AND THE REDUCTION OF REPETITIVE FLOODING IN THE AREA. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS					60
		TOTAL FUNDING	LNR		C		15C
			LNR		N		45N
<b>DEF110 - AMELIORATION OF PHYSICAL DISASTERS</b>							
16.	A33	ARMY NATIONAL GUARD ARMORY, KAUNAKAKAI, MOLOKAI					
		CONSTRUCTION FOR A NATIONAL GUARD ARMORY FACILITY TO INCLUDE ALL UTILITIES, ACCESS ROAD, PARKING AREAS, AND OTHER SUPPORTING FEATURES.					
		CONSTRUCTION				300	
		TOTAL FUNDING	AGS			300C	C
17.	A37	MAUI ARMY NATIONAL GUARD ARMORY, MAUI					
		PLANS FOR A MAJOR ARMORY COMPLEX CONSOLIDATING THE EXISTING FACILITIES, UTILITIES, ACCESS ROAD, PARKING, SECURITY FENCING, AND OTHER RELATED WORK.					
		PLANS				300	
		TOTAL FUNDING	AGS			300C	C
18.	C13	REPLACEMENT/UPGRADE OF DISASTER WARNING AND COMMUNICATIONS DEVICES, STATEWIDE					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE INCREMENTAL ADDITION, REPLACEMENT, AND UPGRADE OF CIVIL DEFENSE WARNING SIRENS, OTHER WARNING DEVICES & COMMUNICATIONS EQUIPMENT TO EXPAND THE COVERAGE OF THE WARNING SYSTEM. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		PLANS			1		1
		LAND			1		1
		DESIGN			40		45
		CONSTRUCTION			475		490
		EQUIPMENT			118		123
		TOTAL FUNDING	AGS		510C		530C
			AGS		125N		130N
19.	A9701	EDUCATION AND TRAINING ACADEMY, BELLOWS AFS, OAHU					
		PLANS FOR A SPECIALLY DESIGNED COMPLEX OF PERMANENT STEEL AND MASONRY TYPE CONSTRUCTION INCLUDING ALL UTILITIES, ACCESS ROADS, PARKING AREAS, FENCING, TRAINING FIELDS, AND OTHER SUPPORTING FEATURES.					
		PLANS			100		
		TOTAL FUNDING	AGS		100C		C
19A.		ADDITIONAL IMPROVEMENTS TO NATIONAL GUARD ARMORIES, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR IMPROVEMENTS AT NATIONAL GUARD ARMORIES TO CONFORM TO CURRENT NATIONAL GUARD BUREAU STANDARDS AND CRITERIA, AND TO MEET UNANTICIPATED HEALTH, SAFETY, AND BUILDING CODE REQUIREMENTS.					
		DESIGN					40
		CONSTRUCTION					205
		TOTAL FUNDING	AGS			C	245C
<b>K. GOVERNMENT-WIDE SUPPORT</b>							
<b>GOV100 - OFFICE OF THE GOVERNOR</b>							
1.	G01	PROJECT ADJUSTMENT FUND, STATEWIDE					
		DESIGN FOR THE ESTABLISHMENT OF A CONTINGENCY FUND FOR PROJECT ADJUSTMENT PURPOSES SUBJECT TO THE PROVISIONS OF THE APPROPRIATIONS ACT.					
		DESIGN			1		1
		TOTAL FUNDING	AGS		1C		1C
<b>BED104 - HAWAII COMMUNITY DEVELOPMENT AUTHORITY</b>							

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
2.	KA001	KAKAAKO COMMUNITY DEVELOPMENT DISTRICT, MAUKA AREA INCREMENTS 2, 3, AND 4, OAHU					
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR: KAMAKEE STREET FROM QUEEN STREET TO ALA MOANA BOULEVARD; KAMAKEE STREET TO KEWALO BASIN; AND, KEWALO BASIN ENTRANCE. PROJECT MAY INCLUDE IMPROVEMENTS TO THE ROADWAY, DRAINAGE, SEWER, WATER, ELECTRICAL, TELEPHONE, AND CABLE TELEVISION SYSTEMS.					
		PLANS			1		
		LAND			1		
		DESIGN			1		
		CONSTRUCTION			11,106		
		TOTAL FUNDING	BED		11,109C		
3.	KA002	KAKAAKO COMMUNITY DEVELOPMENT DISTRICT, MAKAI AREA INCREMENTS 2, 3, AND 4, OAHU					
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR ILALO STREET FROM WARD AVENUE TO SOUTH AND PUNCHBOWL STREETS. PROJECT TO INCLUDE IMPROVEMENTS TO THE ROADWAY, DRAINAGE, SEWER, WATER, ELECTRICAL, TELEPHONE, AND CABLE TELEVISION SYSTEMS.					
		PLANS			3		1
		LAND			3		1
		DESIGN			3,994		
		CONSTRUCTION			16,300		15,998
		TOTAL FUNDING	BED		20,300C		16,000C
4.	KA003	KAKAAKO MAKAI DEVELOPMENT, OAHU					
		PLANS FOR THE DEVELOPMENT OF THE MAKAI AREA, INCLUDING PROPOSED PROJECTS AND INFRASTRUCTURAL AND OTHER IMPROVEMENTS.					
		PLANS			1,000		
		TOTAL FUNDING	BED		1,000C		
6.	KA005	STATE OFFICE BUILDING, OAHU					
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR THE PURCHASE OF A STATE OFFICE BUILDING. PROJECT TO INCLUDE ACQUISITION OF FACILITY, RENOVATIONS, UPGRADE, AND OTHER RELATED IMPROVEMENTS TO AIR CONDITIONING SYSTEM, INTERIOR RENOVATION, ASBESTOS REMOVAL, AND OTHER RELATED WORK.					
		PLANS			1		
		LAND			1		
		DESIGN			1		
		CONSTRUCTION			18,997		
		TOTAL FUNDING	BED		19,000C		
7.	HCD001	KAKAAKO COMMUNITY DEVELOPMENT DISTRICT, OAHU					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR PLANNING, DEVELOPMENT, AND PROJECT COSTS AS DEFINED IN CHAPTER 206E, HAWAII REVISED STATUTES, FOR KAKAAKO COMMUNITY DEVELOPMENT DISTRICT. FUNDS MAY BE USED TO MATCH FEDERAL AND NON-STATE FUNDS, AS MAY BE AVAILABLE.					
		PLANS		1,797		1,797	
		LAND		1		1	
		DESIGN		1		1	
		CONSTRUCTION		1		1	
		TOTAL FUNDING	BED	1,800C		1,800C	
8.	KA006	POHUKAINA ELEMENTARY SCHOOL (NEW), OAHU					
		PLANS AND DESIGN FOR THE NEW POHUKAINA ELEMENTARY SCHOOL.					
		PLANS		249			
		DESIGN		1			
		TOTAL FUNDING	BED	250C			C
<b>BUF101 - PROGRAM PLANNING, ANALYSIS AND BUDGETING</b>							
10.	98-01	HAWAIIAN HOME LANDS TRUST FUND, STATEWIDE					
		CONSTRUCTION TO AUTHORIZE THE TRANSFER OF GENERAL OBLIGATION BOND FUNDS TO THE HAWAIIAN HOME LANDS TRUST FUND TO SATISFY THE PROVISIONS OF ACT 14, SPLSH 1995.					
		CONSTRUCTION		60,000		30,000	
		TOTAL FUNDING	BUF	60,000C		30,000C	
11.	98-02	STATE EDUCATIONAL FACILITIES IMPROVEMENT SPECIAL FUND, STATEWIDE					
		CONSTRUCTION TO AUTHORIZE THE TRANSFER OF GENERAL OBLIGATION BOND FUNDS TO THE STATE EDUCATIONAL FACILITIES IMPROVEMENT SPECIAL FUND.					
		CONSTRUCTION		156,887		128,522	
		TOTAL FUNDING	BUF	156,887C		128,522C	
12.	98-03	RENTAL HOUSING TRUST FUND, STATEWIDE					
		CONSTRUCTION TO AUTHORIZE THE TRANSFER OF GENERAL OBLIGATION BOND FUNDS TO THE RENTAL HOUSING TRUST FUND.					
		CONSTRUCTION		10,000		10,000	
		TOTAL FUNDING	BUF	10,000C		10,000C	
13.	98-04	AIRPORT REVENUE FUND, STATEWIDE					
		CONSTRUCTION TO AUTHORIZE THE TRANSFER OF GENERAL OBLIGATION BOND FUNDS TO THE AIRPORT REVENUE FUND FOR PRINCIPAL AND INTEREST PAYMENTS ON THE \$64,436,700 USED FOR THE KAPOLEI LAND PURCHASE.					
		CONSTRUCTION		2,100			

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	BUF			2,100C	C

AGS161 - COMMUNICATION

- 14. BUF02 TELECOMMUNICATIONS SITE, OAHU  
 CONSTRUCTION AND EQUIPMENT FOR A TELECOMMUNICATIONS FACILITY TO SUPPLEMENT THE EXISTING TELECOMMUNICATIONS SITE AT ROUND TOP AND THE CAPITOL COMPLEX.  
 CONSTRUCTION 955  
 EQUIPMENT 130  
 TOTAL FUNDING AGS 1,085C C
  
- 15. ICSD02 LIHUE STATE OFFICE BUILDING, EMERGENCY GENERATOR, KAUAI  
 DESIGN AND CONSTRUCTION TO INSTALL AND ENCLOSE EMERGENCY GENERATOR, FUEL TANKS, AND PERFORM ELECTRICAL WORK FOR COMMUNICATION FACILITIES AT LIHUE STATE OFFICE BUILDING.  
 DESIGN 45  
 CONSTRUCTION 215  
 TOTAL FUNDING AGS 260C C
  
- 16. ICSD03 WAILUKU STATE OFFICE BUILDING, EMERGENCY GENERATOR, MAUI  
 DESIGN AND CONSTRUCTION TO INSTALL AND ENCLOSE EMERGENCY GENERATOR, FUEL TANKS, AND PERFORM ELECTRICAL WORK FOR COMMUNICATION FACILITIES AT WAILUKU STATE OFFICE BUILDING.  
 DESIGN 45  
 CONSTRUCTION 215  
 TOTAL FUNDING AGS C 260C
  
- 17. ICSD10 STATE 800 MHZ RADIO SYSTEM, STATEWIDE  
 PLANS AND DESIGN FOR INSTALLATION OF AN 800 MHZ RADIO SYSTEM, STATEWIDE.  
 PLANS 110  
 DESIGN 55  
 TOTAL FUNDING AGS 165C 360  
 360C
  
- 18. 101004 MICROWAVE TOWER AND GENERATOR ENCLOSURE, MOLOKAI  
 PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW MICROWAVE STATION TO PROVIDE THE MOLOKAI EDUCATION CENTER AND OTHER STATE FACILITIES WITH CONNECTION TO THE MICROWAVE BACKBONES ON LANAI. PROJECT TO INCLUDE FIBER CONNECTION AND EQUIPMENT FOR FULL ACCESS TO STATE INFORMATION SYSTEMS AND SERVICES. PROJECT TO INCLUDE NECESSARY UPGRADES ON LANAI, MOLOKAI, AND MAUI.  
 PLANS 1  
 LAND 1

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)				
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F	
		DESIGN					95	
		CONSTRUCTION					1,058	
		EQUIPMENT					345	
		TOTAL FUNDING	AGS		C		1,500C	
18A.	ICSD11	STATEWIDE NETWORK INFRASTRUCTURE - PHASE 1, STATEWIDE						
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR INSTALLATION AND CONSTRUCTION OF INFRASTRUCTURE TO IMPLEMENT REQUIREMENTS OF BUDGET PROVISIO 213, ACT 328/97 MANDATING INTEGRATION OF HUMAN RESOURCES, PAYROLL, HEALTH FUND, AND EMPLOYEES' RETIREMENT SYSTEM.						
		PLANS					1	
		DESIGN					1	
		CONSTRUCTION					400	
		EQUIPMENT					748	
		TOTAL FUNDING	AGS		C		1,150C	
<b>LNR101 - PUBLIC LANDS MANAGEMENT</b>								
19.	E85-D	DLNR OAHU BASEYARD, OAHU						
		DESIGN AND CONSTRUCTION FOR A DEPARTMENT BASEYARD, WAREHOUSE, AND PARKING AREA WITH OTHER INCIDENTAL AND RELATED WORK.						
		DESIGN				150		
		CONSTRUCTION					1,000	
		TOTAL FUNDING	LNR		150B		1,000B	
20.	56131Q	KAWAI NUI MARSH MAINTENANCE BASEYARD, OAHU						
		PLANS, DESIGN, AND CONSTRUCTION FOR A MAINTENANCE FACILITY WITH SECURED AREA FOR OFFICE SPACE, STORAGE FOR EQUIPMENT, TOOLS AND SUPPLIES, PARKING AREA FOR MAINTENANCE VEHICLES, AND OTHER RELATED WORK.						
		PLANS				20		
		DESIGN				30		
		CONSTRUCTION				250		
		TOTAL FUNDING	LNR		300B		B	
21.	E78	RESOURCE LAND ACQUISITIONS, STATEWIDE						
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION INCLUDING ACQUISITION OF EASEMENTS OR LANDS HAVING VALUE AS A RESOURCE TO THE STATE, INCLUDING LANDS HAVING NATURAL, ENVIRONMENTAL, RECREATIONAL, SCENIC, OPEN SPACE, CULTURAL OR HISTORICAL VALUE.						
		LAND				11,148		
		DESIGN				1		
		CONSTRUCTION				1		
		TOTAL FUNDING	LNR		11,150C		C	

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
21A.	E85	INDUSTRIAL MARKET PLANNING, STATEWIDE					
		PLANS FOR THE PREPARATION OF A MARKET ANALYSIS TO DETERMINE STATE LANDS SUITABLE FOR INDUSTRIAL DEVELOPMENT.					
		PLANS					150
		TOTAL FUNDING		LNR	B		150B
21B.	E91	DRAINAGE IMPROVEMENTS, WAIMANALO, OAHU					
		PLANS, DESIGN, AND CONSTRUCTION OF CONCRETE CULVERT DRAINAGE PIPE.					
		PLANS					10
		DESIGN					25
		CONSTRUCTION					300
		TOTAL FUNDING		LNR	C		335C
21C.		AGRICULTURAL RESOURCE LAND ACQUISITIONS, MAUI					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR ACQUISITION OF AGRICULTURAL LANDS ON MAUI FOR FUTURE DEVELOPMENT OF AN AGRICULTURE PARK.					
		LAND					2,998
		DESIGN					1
		CONSTRUCTION					1
		TOTAL FUNDING		LNR	C		3,000C
<b>AGS221 - CONSTRUCTION</b>							
22.	B27	ADVANCED PLANNING, STATEWIDE					
		PLANS FOR PROVIDING ASSISTANCE TO THE PUBLIC, STATE, AND COUNTIES IN MATTERS RELATING TO DAGS' PUBLIC WORKS DIVISION AND INCLUDES THE PREPARATION OF PROGRAMS, REPORTS, STUDIES, INVENTORIES, REVIEWS, AND PERFORMANCES OF ALL NECESSARY ACTIVITIES TO CARRY OUT DAGS FUNCTIONS.					
		PLANS					50
		TOTAL FUNDING		AGS			50C
23.	B28	STATE OFFICE BUILDINGS, REMODELING, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR REMODELING AND UPGRADING OF OFFICES OCCUPIED BY STATE AGENCIES IN STATE OWNED SPACE AND PROVIDE ADEQUATE SPACE FOR AGENCIES TO ACCOMMODATE THEIR OPERATIONAL REQUIREMENTS. PROJECT TO INCLUDE REMODELING FOR REORGANIZATION, PROGRAM CHANGES, STAFFING CHANGES, CORRECTION OF INEFFICIENT OFFICE LAYOUTS, PLUMBING, ELEVATORS, ETC.					
		DESIGN					120
		CONSTRUCTION					800
		EQUIPMENT					5
		TOTAL FUNDING		AGS			925C
							125
							840
							5
							970C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
24.	C43	KAHULUI CIVIC CENTER, PHASE I, MAUI					
		PLANS, DESIGN, AND CONSTRUCTION FOR DEVELOPMENT OF THE KAHULUI CIVIC CENTER VIA LEASEBACK/PURCHASE OPTION AGREEMENT USING A PRIVATE DEVELOPER SELECTED BY REQUEST FOR PROPOSAL (RFP) PROCESS, OR BY STATE ISSUING CERTIFICATE OF PARTICIPATION (COP) USING A DESIGN/BUILD RFP PROCESS OR THE CONSTRUCTION OF TEMPORARY FACILITIES TO REDUCE THE AMOUNT OF PRIVATE LEASED SPACE.					
		PLANS			498		
		DESIGN			1		
		CONSTRUCTION			1		
		TOTAL FUNDING	AGS		500C		C
25.	E105	CAPITOL CENTER BUILDING FEE PURCHASE, OAHU					
		LAND ACQUISITION TO PURCHASE THE LEASED FEE INTEREST IN THE CAPITOL CENTER BUILDING LOCATED AT 1177 ALAKEA STREET, HONOLULU, HAWAII.					
		LAND			2,100		
		TOTAL FUNDING	AGS		2,100C		C
26.	E109	CAPITAL IMPROVEMENTS PROGRAM STAFF COSTS, STATEWIDE					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR COSTS RELATED TO WAGES AND FRINGES FOR PERMANENT PROJECT FUNDED STAFF POSITIONS FOR THE IMPLEMENTATION OF CAPITAL IMPROVEMENTS PROGRAM PROJECTS FOR THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES. PROJECT MAY ALSO INCLUDE FUNDS FOR NON-PERMANENT CAPITAL IMPROVEMENTS PROGRAM RELATED POSITIONS.					
		PLANS			5,662		6,756
		LAND			1		1
		DESIGN			1		1
		CONSTRUCTION			1		1
		EQUIPMENT			1		1
		TOTAL FUNDING	AGS		5,666C		6,760C
27.	F109	AIR CONDITIONING SYSTEM UPGRADES, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE UPGRADE OF AIR CONDITIONING SYSTEMS IN STATE BUILDINGS AND OTHER RELATED IMPROVEMENTS.					
		DESIGN			65		50
		CONSTRUCTION			575		490
		EQUIPMENT			1		
		TOTAL FUNDING	AGS		641C		540C
28.	G101	LIHUE STATE OFFICE BUILDING COMPLEX, ADA COMPLIANCE, KAUAI					



CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		DESIGN AND CONSTRUCTION FOR THE RENOVATION OF THE LIHUE STATE OFFICE BUILDING, LIHUE COURTHOUSE, AND LIHUE HEALTH CENTER AND ANNEX TO REMOVE ARCHITECTURAL BARRIERS AND PROVIDE ACCESSIBILITY AND INCREASED SAFETY FOR PERSONS WITH DISABILITIES IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES.					
		DESIGN			30		
		CONSTRUCTION			170		
		TOTAL FUNDING	AGS		200C		C
29.	G103	LILIUOKALANI BUILDING, UPGRADE ELECTRICAL POWER FOR USERS, OAHU					
		DESIGN AND CONSTRUCTION TO UPGRADE THE ELECTRICAL POWER SUPPLY AND PROVIDE PROPERLY GROUNDED THREE-PRONG ELECTRICAL OUTLETS THROUGHOUT THE BUILDING.					
		DESIGN			30		
		CONSTRUCTION			175		
		TOTAL FUNDING	AGS		205C		C
30.	G104	HILO STATE OFFICE BUILDING, SECURITY IMPROVEMENTS, HAWAII					
		DESIGN AND CONSTRUCTION TO PROVIDE CHANGES AND ADDITIONS TO FACILITY TO MEET CURRENT NEEDS AND CRITERIA FOR PHYSICAL SECURITY.					
		DESIGN			15		
		CONSTRUCTION			100		
		TOTAL FUNDING	AGS		115C		C
31.	G105	HILO STATE OFFICE BUILDING, ADA COMPLIANCE, HAWAII					
		DESIGN AND CONSTRUCTION TO RENOVATE THE HILO STATE OFFICE BUILDING TO REMOVE ARCHITECTURAL BARRIERS AND PROVIDE ACCESSIBILITY AND INCREASED SAFETY FOR PERSONS WITH DISABILITIES IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES.					
		DESIGN			35		
		CONSTRUCTION			200		
		TOTAL FUNDING	AGS		235C		C
32.	B101M	HEALTH AND SAFETY REQUIREMENTS, STATEWIDE					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE MITIGATION OF HAZARDOUS MATERIALS AND/OR PHYSICAL CONDITIONS FROM STATE FACILITIES TO MEET CURRENT CODE REQUIREMENTS, STATEWIDE.					
		DESIGN			75		80
		CONSTRUCTION			500		525
		EQUIPMENT			5		5
		TOTAL FUNDING	AGS		580C		610C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
33.	G102	LIHUE STATE OFFICE BUILDING, ASBESTOS REMOVAL, KAUAI					
		DESIGN AND CONSTRUCTION FOR CLEAN UP, REMOVAL, AND DISPOSAL OF ASBESTOS CONTAINING CEILING TILES AND THEIR REPLACEMENT WITH NON-ASBESTOS CONTAINING CEILING TILES. WORK MAY INCLUDE THE TEMPORARY RELOCATION OF VARIOUS OFFICES.					
		DESIGN			25		
		CONSTRUCTION			250		
		TOTAL FUNDING	AGS		275C		C
34.	G106	HILO STATE OFFICE BUILDING, HAZARDOUS MATERIALS REMOVAL PROJECT, HAWAII					
		DESIGN AND CONSTRUCTION FOR THE MITIGATION OF HAZARDOUS MATERIALS IN THE HILO STATE OFFICE BUILDING.					
		DESIGN			80		
		CONSTRUCTION			650		
		TOTAL FUNDING	AGS		730C		C
35.		KONA COFFEE LIVING HISTORY FARM, HAWAII					
		DESIGN AND CONSTRUCTION FOR THE KONA COFFEE LIVING HISTORY FARM. PROJECT TO INCLUDE DEVELOPMENT OF AN ACCESS ROAD AND AN EXHIBIT BUILDING. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.					
		DESIGN			24		
		CONSTRUCTION			276		
		TOTAL FUNDING	AGS		300C		C
36.		STATE SPORTS RECREATIONAL COMPLEX, OAHU					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A STATE SPORTS RECREATIONAL COMPLEX ON OAHU. SITE TO BE SELECTED BY DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES. THE USE OF STATE LANDS FOR THE COMPLEX SHALL TAKE PRECEDENCE OVER THE ACQUISITION OF PRIVATE LANDS. FUNDS NOT NEEDED IN A COST ELEMENT MAY BE USED IN ANOTHER.					
		PLANS			100		1,000
		LAND			1,000		500
		DESIGN			400		3,000
		CONSTRUCTION			5,000		11,750
		EQUIPMENT					5,000
		TOTAL FUNDING	AGS		6,500C		21,250C
37.	P97097	WAHIAWA CIVIC CENTER, OAHU					

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS AND DESIGN FOR A STATE OFFICE BUILDING AND STATE OFFICE BUILDING PARKING STRUCTURE AT THE WAHIAWA CIVIC CENTER.					
		PLANS DESIGN				50	
						200	
		TOTAL FUNDING	AGS			250C	C
37A.	H101	STATE OFFICE BUILDINGS, ADA PUBLIC ACCESSIBILITY, STATEWIDE					
		DESIGN AND CONSTRUCTION TO PROVIDE MINIMUM PUBLIC ACCESSIBLE PARKING AND PATHWAY TO ALL STATE OFFICE BUILDINGS (SOB) SERVING THE PUBLIC (INCLUDING FIRST FLOOR ACCESSIBLE RESTROOMS).					
		DESIGN					150
		CONSTRUCTION					850
		TOTAL FUNDING	AGS				C 1,000C
<b>AGS233 - BUILDING REPAIRS AND ALTERATIONS</b>							
38.	CSD01	LUMP SUM CIP, PUBLIC BUILDING IMPROVEMENTS, STATEWIDE					
		DESIGN AND CONSTRUCTION FOR THE IMPROVEMENTS OF PUBLIC OFFICE BUILDINGS INCLUDING LIBRARIES AND HEALTH CENTERS, STATEWIDE. PROJECT MAY INCLUDE ROOFING, AIR CONDITIONING, OTHER REPAIRS AND IMPROVEMENTS TO PUBLIC FACILITIES MAINTAINED BY THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES.					
		DESIGN				249	
		CONSTRUCTION				2,023	
		TOTAL FUNDING	AGS			2,272C	C
<b>SUB201 - CITY AND COUNTY OF HONOLULU</b>							
39.		HOOKIEKIE STREEET ROAD IMPROVEMENTS, OAHU					
		DESIGN AND CONSTRUCTION FOR ROAD IMPROVEMENTS TO HOOKIEKIE STREET TO BRING UP TO CITY AND COUNTY STANDARDS.					
		DESIGN				12	
		CONSTRUCTION				66	
		TOTAL FUNDING	CCH			78C	C
40.	P97099	PAUOA ROAD SIDEWALK IMPROVEMENTS, OAHU					
		DESIGN AND CONSTRUCTION FOR SIDEWALK IMPROVEMENTS ALONG PAUOA ROAD FRONTING PAUOA ELEMENTARY SCHOOL IN THE VICINITY OF TMK 2:2-16:20.					
		DESIGN					35
		CONSTRUCTION					315
		TOTAL FUNDING	CCH				C 350C
40A.		FILCOM CENTER, OAHU					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR THE FILCOM CENTER TO SERVE AS A PRIMARY FOCAL POINT FOR ACTIVITIES AND EDUCATION ABOUT THE FILIPINO CULTURE AND LEGACY IN HAWAII.					
		PLANS					1
		LAND					1
		DESIGN					1
		CONSTRUCTION					1,497
		TOTAL FUNDING	CCH		C		1,500C
<b>SUB301 - COUNTY OF HAWAII</b>							
41.		WATERLINE EXTENSION, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A WATERLINE EXTENSION, FROM PARADISE DRIVE TO PAHOA, HAWAII.					
		DESIGN				120	
		CONSTRUCTION				1,379	
		EQUIPMENT				1	
		TOTAL FUNDING	COH			1,500C	C
42.		KEAUKAHA GYMNASIUM, HAWAII					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE KEAUKAHA GYMNASIUM.					
		PLANS				1	1
		DESIGN				1	1
		CONSTRUCTION				997	330
		EQUIPMENT				1	1
		TOTAL FUNDING	COH			1,000C	333C
43.		KALOPA SAND GULCH ROAD, HAWAII					
		PLANS, DESIGN, AND CONSTRUCTION FOR THE IMPROVEMENTS TO KALOPA SAND GULCH ROAD.					
		PLANS				1	
		DESIGN				1	
		CONSTRUCTION				598	
		TOTAL FUNDING	COH			600C	C
44.		PALANI ROAD IMPROVEMENTS, HAWAII					
		PLANS AND DESIGN FOR THE SAFETY ROAD IMPROVEMENTS TO PALANI ROAD.					
		PLANS				50	
		DESIGN				100	
		TOTAL FUNDING	COH			150C	C
45.		KONAWAENA SWIMMING POOL, HAWAII					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE KONAWAENA SWIMMING POOL.					
		DESIGN				1	
		CONSTRUCTION				83	
		EQUIPMENT				1	
		TOTAL FUNDING	COH			85C	C

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
46.		PAHALA EXPLORATORY WELL, HAWAII					
		DESIGN AND CONSTRUCTION FOR THE DEVELOPMENT OF PAHALA EXPLORATORY WELL.					
		DESIGN			65		
		CONSTRUCTION			600		
		TOTAL FUNDING	COH		665C		C
47.		HIENALOLI-KAHULUI WATERLINE, HAWAII					
		DESIGN AND CONSTRUCTION FOR THE DEVELOPMENT OF AN 8-INCH WATERLINE FROM HIENALOLI TO KAHULUI.					
		DESIGN			20		
		CONSTRUCTION			230		
		TOTAL FUNDING	COH		250C		C
48.		NORTH GLENWOOD ROAD WELL, HAWAII					
		DESIGN FOR THE DEVELOPMENT OF THE NORTH GLENWOOD ROAD WELL.					
		DESIGN			150		
		TOTAL FUNDING	COH		150C		C
49.		BIKEWAY DEVELOPMENT, HILO AIRPORT TO KALOLI STREET, HAWAII					
		DESIGN FOR THE BIKEWAY DEVELOPMENT FROM HILO AIRPORT TO KALOLI STREET.					
		DESIGN			100		
		TOTAL FUNDING	COH		100C		C
49A.		OCEAN VIEW EXPLORATORY WELL DEVELOPMENT, HAWAII					
		PLANS AND DESIGN FOR THE ENGINEERING AND CONSTRUCTION OF AN EXPLORATORY WELL NEAR MAMALAHOA HIGHWAY FOR OCEAN VIEW IN KA'U, HAWAII. FUNDS TO BE EXPENDED BY THE COUNTY OF HAWAII CIVIL DEFENSE.					
		PLANS			50		
		DESIGN			50		
		TOTAL FUNDING	COH		100C		C
49B.		OCEAN VIEW WELL DEVELOPMENT, KA'U, HAWAII					
		DESIGN AND CONSTRUCTION OF PUMPS, CONTROLS, CONNECTING PIPELINE, AND OTHER INCIDENTAL AND RELATED WORK.					
		DESIGN					250
		CONSTRUCTION					1,000
		TOTAL FUNDING	COH			C	1,250C
49C.		KA'U AGRICULTURAL WATER SYSTEM, HAWAII					
		DESIGN AND CONSTRUCTION FOR AN AGRICULTURAL WATER SYSTEM IN THE KA'U DISTRICT.					
		DESIGN					1

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		CONSTRUCTION					479
		TOTAL FUNDING	AGR		C		480C
49D.		KA'U HAWAIIAN CULTURAL CENTER, HAWAII					
		CONSTRUCTION FOR THE COUNTY OF HAWAII TO EXPEND IN THE AID OF BUILDING A HAWAIIAN CULTURAL CENTER IN KA'U, HAWAII.					
		CONSTRUCTION					245
		TOTAL FUNDING	COH		C		245C
<b>SUB401 - COUNTY OF MAUI</b>							
50.		BINHI AT-ANI COMMUNITY CENTER, MAUI					
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE BINHI AT-ANI COMMUNITY CENTER.					
		DESIGN				80	
		CONSTRUCTION				919	
		EQUIPMENT				1	
		TOTAL FUNDING	COM			1,000C	C
51.	P97110	UPCOUNTRY MAUI WATERSHED PROJECT, MAUI					
		LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR INSTALLATION OF PIPELINE FOR THE UPCOUNTRY MAUI WATERSHED PROJECT, KULA, MAUI. THIS PROJECT IS DEEMED NECESSARY TO QUALIFY FOR FEDERAL AID FINANCING AND/OR REIMBURSEMENT.					
		LAND				1	
		DESIGN				1	
		CONSTRUCTION				2,998	
		TOTAL FUNDING	COM			3,000C	C
52.		WAILUKU AIKIDO DOJO, MAUI					
		DESIGN AND CONSTRUCTION FOR THE REPLACEMENT AND/OR RENOVATION OF THE WAILUKU AIKIDO DOJO.					
		DESIGN				35	
		CONSTRUCTION				315	
		TOTAL FUNDING	COM			350C	C
52A.		MAUI ECONOMIC OPPORTUNITY FACILITY, MAUI					
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR DEVELOPMENT OF A SUPPORT FACILITY TO HOUSE OPERATIONS AND PROVIDE SERVICES OF THE MAUI ECONOMIC OPPORTUNITY PROGRAM.					
		PLANS					1
		LAND					1
		DESIGN					1
		CONSTRUCTION					2,497
		TOTAL FUNDING	COM		C		2,500C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
<b>SUB501 - COUNTY OF KAUAI</b>							
53.	P97112	KAUAI POLICE/CIVIL DEFENSE EMERGENCY OPERATING CENTER, KAUAI					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW POLICE/CIVIL DEFENSE EMERGENCY OPERATING CENTER.					
		PLANS			300		
		DESIGN			5		
		CONSTRUCTION			449		
		EQUIPMENT			1		
		TOTAL FUNDING	COK		755C		C
54.		RICE STREET ROAD IMPROVEMENTS, KAUAI					
		DESIGN AND CONSTRUCTION FOR ROAD IMPROVEMENTS TO RICE STREET TO BRING UP TO COUNTY STANDARDS.					
		DESIGN			30		
		CONSTRUCTION			300		
		TOTAL FUNDING	COK		330C		C
55.		WAIMEA SEWER SYSTEM, KAUAI					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE WAIMEA SEWER SYSTEM.					
		PLANS			1		
		DESIGN			1		
		CONSTRUCTION			347		
		EQUIPMENT			1		
		TOTAL FUNDING	COK		350C		C
56.		WAILUA/KAPAA SEWER SYSTEM, KAUAI					
		PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE WAILUA/KAPAA SEWER SYSTEM.					
		PLANS			1		
		DESIGN			1		
		CONSTRUCTION			247		
		EQUIPMENT			1		
		TOTAL FUNDING	COK		250C		C
57.		ANTONE K. VIDINHA MULTI-PURPOSE COMPLEX, KAUAI					
		PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR A NEW ANTONE K. VIDINHA MULTI-PURPOSE COMPLEX AND OTHER NECESSARY FACILITIES.					
		PLANS			250		
		LAND			1		
		DESIGN			1		
		CONSTRUCTION			447		
		EQUIPMENT			1		
		TOTAL FUNDING	COK		700C		C
58.		KAPAA FIRE STATION, KAUAI					

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		PLANS, DESIGN, AND CONSTRUCTION FOR THE KAPAA FIRE STATION.					
		PLANS			1		
		DESIGN			1		
		CONSTRUCTION			248		
		TOTAL FUNDING	COK		250C		C
59.		ANAHOLA WATER SYSTEM, KAUAI					
		DESIGN AND CONSTRUCTION FOR A 0.5 MILLION GALLON (MG) STORAGE TANK AND CONNECTING PIPELINE AND RELATED APPURTENANCES.					
		DESIGN			10		
		CONSTRUCTION			750		
		TOTAL FUNDING	COK		760C		C
60.		LIHUE WATER SYSTEM, KAUAI					
		DESIGN AND CONSTRUCTION FOR PUMP, ELECTRICAL CONTROLS, CONNECTING PIPELINE, AND APPURTENANCES FOR HANAMAULU WELL NO. 4.					
		DESIGN			45		
		CONSTRUCTION			400		
		TOTAL FUNDING	COK		445C		C
61.		WAILUA/KAPAA WATER SYSTEM, KAUAI					
		PLANS, LAND ACQUISITION, DESIGN, AND CONSTRUCTION FOR PUMP, ELECTRICAL CONTROLS, CONNECTING PIPELINE, AND RELATED APPURTENANCES FOR WAILUA HOMESTEADS WELL NO. 3.					
		PLANS			1		
		LAND			60		
		DESIGN			1		
		CONSTRUCTION			98		
		TOTAL FUNDING	COK		160C		C
61A.		PUHI WELL NO. 5A AND NO. 5B, KAUAI					
		DESIGN AND CONSTRUCTION FOR STATE PARTICIPATION IN THE DEVELOPMENT OF PUHI WELL NO. 5A AND 5B.					
		DESIGN					100
		CONSTRUCTION					500
		TOTAL FUNDING	COK			C	600C

SECTION 6. PART V, Act 328, Session Laws of Hawaii 1997, is amended:  
 (1) By adding a new section to read as follows:

“SECTION 143.1. Provided that of the other federal funds appropriation for Oahu highways (TRN 501), the sum of \$1,600,000 for fiscal year 1998-1999 shall be used for construction for interstate route H-1 improvements, Manager’s drive bridge widening, Oahu; provided further that no funds shall be expended unless the state’s pro rata matching share for the federal funds are paid with developer’s contributions;



and provided further that no funds shall be expended unless the developer enters into an agreement with the state to reimburse the state highway funds for all other federal funds used for the project.”

(2) By adding a new section to read as follows:

“SECTION 143.2. Provided that of the other federal funds appropriation for Oahu highways (TRN 501), the sum of \$1,800,000 for fiscal year 1998-1999 shall be used for construction for Kunia road, intersection improvements in the vicinity of Royal Kunia, Oahu; provided further that no funds shall be expended unless the state’s pro rata matching share for the federal funds are paid with developer’s contributions; and provided further that no funds shall be expended unless the developer enters into an agreement with the state to reimburse the state highway fund for all other federal funds used for the project.”

(3) By adding a new section to read as follows:

“SECTION 143.3. Provided that of the other federal funds appropriations for Oahu highways (TRN 501), the sum of \$5,200,000 for fiscal year 1998-1999 shall be used for construction for the design and construction for Waipio Interchange expansion, Oahu; provided further that no funds shall be expended unless the state’s pro rata matching share for the federal funds are paid with developer’s contributions; and provided further that no funds shall be expended unless the developer enters into an agreement with the state to reimburse the state highway funds for all other federal funds used for the project.”

(4) By adding a new section to read as follows:

“SECTION 143.4. Provided that of the other federal funds appropriations for Oahu highways (TRN 501), the sum of \$13,040,000 for fiscal year 1998-1999 shall be used for design and construction for Ka Uka Boulevard improvements from its terminus at the Interstate H-2 Waipio Interchange, across the Pana Kauahi Gulch to Waiawa Ridge, Oahu; provided further that no funds shall be expended unless the state’s pro rata matching share for the federal funds are paid with developer’s contributions; and provided further that no funds shall be expended unless the developer enters into an agreement with the state to reimburse the state highway fund for all other federal funds used for the project.”

(5) By adding a new section to read as follows:

“SECTION 143.5. Provided that of the other federal funds appropriations for Oahu highways (TRN 501), the sum of \$30,560,000 for fiscal year 1998-1999 shall be used for design and construction for the Central Mauka arterial roadway and collector roads on Waiawa Ridge, Oahu; provided further that no funds shall be expended unless the state’s pro rata matching share for the federal funds are paid with developer’s contributions; and provided further that no funds shall be expended unless the developer enters into an agreement with the state to reimburse the state highway fund for all other federal funds used for the project.”

(6) By amending section 151 to read as follows:

“SECTION 151. Provided that any amount appropriated for any capital improvements program project authorized in part II and listed in formal education, part G of part IV of this Act and funded from the state educational facilities improvement special fund and is in excess of the amount required to complete the project, such excess funds may be expended with the approval of the governor for any or all of the following projects and purposes:

- (1) Royal elementary school, Oahu  
Design, construction, and equipment for administration/library facility; equipment and appurtenances, ground and site improvements; renovate existing facilities to classrooms.
- (2) Nanakuli elementary school, Oahu  
Design and construction for classroom building; ground and site improvements; equipment and appurtenances.

- (3) Nanakuli IV elementary school, Oahu  
Master plans and design for first increment; ground and site improvements; equipment and appurtenances; renovation of existing facilities.
- (4) Waiakea elementary school, Hawaii  
Design and construction for administration and library building(s); ground and site improvements; equipment and appurtenances; renovation of existing facilities.
- (5) Keaau high school, Hawaii  
Construction for the second increment and/or design of the third increment; equipment and appurtenances.
- (6) Waipahu elementary school, Oahu  
Design and construction for a retaining wall/drainage system, ground and site improvements and appurtenances.
- (7) Laie elementary school, Oahu  
Design, construction and equipment for expansion of cafetorium dining room; ground and site improvements; and appurtenances.
- (8) Kahuku high and intermediate school, Oahu  
Plans and land acquisition for additional land for the school campus.
- (9) Keaau intermediate school, Hawaii  
Construction and equipment for music building, ground and site improvements; equipment and appurtenances.
- (10) Waipahu intermediate school, Oahu  
Construction and equipment for new cafetorium, ground and site improvements; equipment and appurtenances.”

(7) By adding a new section to read as follows:

“SECTION 152.1. Provided that of the general obligation bond fund appropriation for the university of Hawaii, system wide support (UOH 900), the sum of \$5,000,000 for fiscal year 1998-1999 shall be used for the acquisition of a fiber optic cable to provide the university and all state departments with high-speed internet connectivity; provided further that the university of Hawaii may match the state’s contribution; and provided further that federal or other funds may be provided for this project where feasible.”

(8) By amending section 154 to read as follows:

“SECTION 154. Provided that of the general obligation bond fund appropriation for the department of public safety, general administration (PSD 900), the sum of \$500,000 for fiscal year 1997-1998 shall be used for master planning of a new [1,500 bed minimum] medium security prison facility[;] containing a minimum of 1,500 beds; provided further that the department of public safety shall develop and implement a community partnering process to be incorporated into the site selection process; provided further that this partnering process shall include community hearings and solicit community input [in] with regard[s] to site selection; provided further that a community benefit and enhancement package may be developed by the department and the affected community to mitigate the negative aspects of building a prison facility in the community; provided further that the benefit and enhancement package may include, but not be limited to, infrastructure improvements, job training programs or improvements to schools within the community; and provided further that any benefit and enhancement package shall be presented to the legislature for approval twenty days prior to the convening of the [1998] 1999 regular session.”

(9) By amending section 156 to read as follows:

“SECTION 156. Provided that of the general obligation bond fund appropriation for construction (AGS 221), the sum of [\$13,426,000] \$12,426,000 for fiscal biennium 1997-1999 shall be used for costs related to wages and fringe benefits for permanent and non-permanent project-funded staff positions for the

implementation of department of accounting and general services capital improvements program [staff costs,] projects statewide; provided further that the department of accounting and general services shall prepare a project-funded staff services budget report detailing each permanent position by number, position title, and compensation (including fringe benefits), in accordance with section 92F-12(a)(14), Hawaii Revised Statutes; provided further that the report shall include the details for all non-permanent capital improvements program related positions; and provided further that the department of accounting and general services shall submit the budget report to the legislature no later than twenty days prior to the convening of the 1998 and 1999 regular sessions.”

(10) By adding a new section to read as follows:

“SECTION 156.1. Provided that of the general obligation bond fund appropriation for the county of Hawaii (SUB 301), the sum of \$333,000 for fiscal year 1998-1999 shall be used for plans, design, and construction and equipment for the Keaukaha gymnasium; and provided further that no funds shall be expended unless matched on a dollar for dollar basis with funds from the county of Hawaii and/or other sources.”

(11) By adding a new section to read as follows:

“SECTION 171.1. Act 218, Session Laws of 1995, section 99, as amended and renumbered by Act 287, Session Laws of Hawaii 1996, section 5 is amended to read as follows:

(1) By amending Item I-14 to read:

“14. C30 EMERGENCY SATELLITE COMMUNICATIONS SYSTEM, STATEWIDE

PLANS, LAND ACQUISITION, DESIGN,  
CONSTRUCTION, AND EQUIPMENT FOR AN  
EMERGENCY SATELLITE COMMUNICATIONS  
SYSTEM LINKING THE STATE EMERGENCY  
OPERATING CENTER WITH EACH COUNTY  
EMERGENCY OPERATING CENTERS. THIS  
PROJECT IS DEEMED NECESSARY TO QUALIFY  
FOR FEDERAL AID FINANCING AND/OR  
REIMBURSEMENTS.

PLANS			1
LAND			1
DESIGN			47
CONSTRUCTION			49
EQUIPMENT			253
TOTAL FUNDING	[AGS]	DEF	351C”

(2) By amending Item K-14A to read:

“14A. PAUKAUILA STREAM, OAHU

PLANS, DESIGN, AND CONSTRUCTION FOR THE  
DREDGING [OF THE MOUTH] AND BANK  
STABILIZATION OF PAUKAUILA STREAM [AS IT  
ENTERS KAIAKA BAY TO PREVENT FLOODING]  
FOR FLOOD PREVENTION AND EROSION  
CONTROL.

PLANS			100
DESIGN			50
CONSTRUCTION			150
TOTAL FUNDING	LNR	C	300C”

(12) By adding a new section to read as follows:

“SECTION 171.2. Any law to the contrary notwithstanding, the appropriations under Act 296, Session Laws of Hawaii 1991, section 165, as amended and renumbered by Act 300, Session Laws of Hawaii 1992, section 6, in the amounts indicated or balances thereof, are hereby amended to read as follows:

<u>Item No.</u>	<u>Amount (MOF)</u>
EDN 305-99A	\$ 83,334[A] <u>C</u>
UOH 104-128	2,247,795[A] <u>C</u> ”

(13) By adding a new section to read as follows:

“SECTION 171.3. Any law to the contrary notwithstanding, the appropriations under Act 316, Session Laws of Hawaii 1989, section 222, as amended and renumbered by Act 299, Session Laws of Hawaii 1990, section 6, in the amounts indicated or balances thereof, are hereby amended to read as follows:

<u>Item No.</u>	<u>Amount (MOF)</u>
AGR 141-26	128,850[A] <u>C</u>
LNR 404-32	115,428[A] <u>C</u>
HTH 901-16	95,807[A] <u>C</u>
HMS 220-3	76,298[A] <u>C</u>
EDN 105-106A	58,445[A] <u>C</u>
EDN 105-106G	47,809[A] <u>C</u>
EDN 105-169B	123,662[A] <u>C</u>
UOH 101-148	129,855[A] <u>C</u>
AGS 221-22C	196,821[A] <u>C</u>
SUB 301-36	278,013[A] <u>C</u> ”

(14) By adding a new section to read as follows:

“SECTION 171.4. Any law to the contrary notwithstanding, the appropriation under Act 179, Session Laws of Hawaii 1989, authorizing general funds in the amount of \$357,814, or balance thereof, is hereby amended to change the method of financing from general funds to general obligation bond funds.”

(15) By adding a new section to read as follows:

“SECTION 171.5. Any law to the contrary notwithstanding, the appropriations which are denoted as necessary to qualify for federal aid financing and reimbursement under Act 218, Session Laws of Hawaii 1995, section 99, as amended and renumbered by Act 287, Session Laws of Hawaii 1996, section 5, in the amounts indicated or balances thereof, unallotted, allotted, encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
TRN 102-2	\$7,805,000 B
TRN 102-2	1,610,000 E
TRN 102-2	6,000,000 N
TRN 102-3	2,811,000 B
TRN 102-3	1,695,000 E
TRN 102-3	7,650,000 N
TRN 303-13	500,000 N
TRN 331-17	190,000 B
TRN 331-17	200,000 N
TRN 501-28	110,000 E
TRN 501-44	290,000 B
TRN 511-57	117,000 E
TRN 561-71	515,000 E

<u>Item No.</u>	<u>Amount (MOF)</u>
TRN 595-84	430,500 C
TRN 595-85	60,000 C
TRN 595-85	240,000 N”

(16) By adding a new section to read as follows:

“SECTION 171.6. Any law to the contrary notwithstanding, the appropriations under Act 218, Session Laws of Hawaii 1995, section 99, as amended and renumbered by Act 287, Session Laws of Hawaii 1996, section 5, in the amounts indicated or balances thereof, unallotted, allotted, encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
AGR 141-1	\$ 500,000 C
AGR 141-2	600,000 C
AGR 141-3	157,000 C
AGR 141-4	175,000 C
AGR 192-5	15,169 C
LNR 141-8	1,315,600 C
LNR 141-9	4,121 C
LNR 141-11	584,000 C
LNR 141-12	403,000 C
LNR 141-12	597,000W
LNR 141-17	390,000 C
LNR 141-24	873,000 C
LNR 141-25	160,000 C
LNR 141-25A	1,000 C
LBR 903-3	6,450,000 C
TRN 102-4A	300,000 B
TRN 131-6D	510,000 B
TRN 151-6F	200,000 B
TRN 195-11B	100,000 B
TRN 313-15	476,000 B
TRN 361-19	492,000 B
TRN 351-19A	201,000 E
TRN 395-21	376,000 B
TRN 395-24	581,000 B
TRN 501-49B	4,132,000 B
TRN 511-52	1,700,000 E
TRN 511-58	700,000 E
TRN 561-73A	2,621,000 B
TRN 561-73E	1,000,000 B
TRN 595-85B	1,500,000 C
LNR 906-8	501,348 C
HTH 214-2	17,900 C
HTH 221-4	1,000 C
SUB 601-7	1,500,000 C
HTH 501-9	1,760,290 C
HTH 907-10	3,851 C
HMS 501-1	30,200 C
HMS 229-10D	220,000 C
HMS 224-11B	39,358 C
HMS 224-11C	197,802 C

<u>Item No.</u>	<u>Amount (MOF)</u>
HHL 602-12	48,908 C
HHL 602-13	136,750 C
EDN 100-14	70,000 B
EDN 100-18	443,900 C
EDN 100-19	400,000 B
EDN 100-20	639,110 B
EDN 100-24	400,100 B
EDN 100-34	77,600 C
EDN 100-35	546,500 B
EDN 100-37	639,000 C
EDN 100-42	54,000 B
EDN 100-44	23 C
EDN 100-45	100,000 C
EDN 100-45A	15,000 C
EDN 100-45B	13,000 C
EDN 100-45C	150,000 C
EDN 100-45E	155,000 C
EDN 100-48	189,260 C
EDN 100-50	24,660 C
EDN 100-50A	95,000 C
EDN 100-50B	78,000 C
EDN 100-54	345,000 C
EDN 100-55	175,000 C
EDN 100-55A	215,000 C
EDN 100-56	3,001 C
EDN 100-59	6,420 C
EDN 100-61	90,000 C
EDN 100-63	31,984 C
EDN 100-63D	190,000 C
EDN 100-67A	30,000 C
EDN 100-67B	10,000 C
EDN 100-69A	15,000 C
EDN 100-69B	150,000 C
EDN 100-70	150,000 C
EDN 100-72	45,765 C
EDN 100-74	39,760 C
EDN 100-75	100,000 C
EDN 100-76	11,338 C
EDN 100-77A	715,000 C
EDN 407-80	143,269 C
EDN 407-81	500,000 C
EDN 407-82	125,140 C
EDN 407-82A	25,000 C
UOH 100-84	248,000 B
UOH 100-85	3,375,000 R
UOH 100-85	3,376,000 W
UOH 100-92A	698,000 C
UOH 300-96	2,107,000 C
AGS 881-0A	200,000 C
LNR 806-3	200,000 C
PSD 402-1A	3,244 C
PSD 407-3	28,043 C

<u>Item No.</u>	<u>Amount (MOF)</u>
PSD 407-4	3,644 C
PSD 900-7	154,826 C
DEF 110-12	84,000 C
BED 104-3	311,449 C
BED 104-4	5,001,000 E
BUF 161-6	66,000 C
BUF 161-9	198,000 C
GOV 100-1	347,489 C
LNR 101-10	1,375,000 B
LNR 101-11	150,000 B
LNR 101-12	150,000 B
LNR 101-14	150,000 B
AGS 221-20	7,060 C
AGS 221-2	5,000 C
AGS 221-24B	1,000 C
SUB 221-25	5,200,000 C
SUB 201-26	400,000 C
SUB 201-27	150,000 C
SUB 201-27A	250,000 C
SUB 301-28	1,100,000 C
SUB 301-29A	10,000 C''

(17) By adding a new section to read as follows:

“SECTION 171.7. Any law to the contrary notwithstanding, the general obligation bond appropriations under Act 16, Special Session of Hawaii 1995, section 8, in the amount of \$200,000, and section 14, in the amount of \$800,000, or balances thereof, unallotted, allotted, encumbered and unrequired, are hereby lapsed.”

(18) By adding a new section to read as follows:

“SECTION 171.8. Any law to the contrary notwithstanding, the appropriations which are denoted as necessary to qualify for federal aid financing and reimbursement under Act 289, Session Laws of Hawaii 1993, section 127, as amended and renumbered by Act 252, Session Laws of Hawaii 1994, section 5, in the amounts indicated or balances thereof, unallotted, allotted, encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
AGR 192-5B	\$ 134,647 C
AGR 192-5B	400,926 N
BED 120-6	1,500,000 C
DEF 110-9	29,407 C
SUB 301-21B	53,000 C
LNR 806-8A	2,000 C''

(19) By adding a new section to read as follows:

“SECTION 171.9. Any law to the contrary notwithstanding, the appropriations under Act 289, Session Laws of Hawaii 1993, section 127, as amended and renumbered by Act 252, Session Laws of Hawaii 1994, section 5, in the amounts indicated or balances thereof, unallotted, allotted, encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
HTH 214-5A	\$ 2,863 C
HTH 223-10	35,309 C
EDN 100-01	134,747 B
EDN 100-02	135,717 B
EDN 100-3	115,481 B
EDN 100-04	21,257 B
EDN 100-6	298,542 B
EDN 100-09	43,909 B
EDN 100-11	16,238 B
EDN 100-13A	35,258 C
EDN 100-14	70,000 B
EDN 100-20	398,512 B
EDN 100-32	185,651 B
EDN 100-35	317,444 B
EDN 100-35B	207,559 B
EDN 100-41	13,576 B
EDN 100-44B	50,628 B
EDN 100-51A	78,850 B
EDN 100-65	12,238 B
EDN 100-65A	176,403 B
EDN 100-68	133,462 B
EDN 100-69	725,148 B
EDN 100-75	619,000 C
EDN 100-76A	100,000 C
EDN 100-83B	176,965 C
EDN 100-87A	17,805 C
EDN 100-88	11,876 C
EDN 100-93	192,316 B
EDN 100-97A	32,227 C
BED 104-4	103,486 C
BED 104-6	107,100 C
AGS 221-12	10,877 C
AGS 221-13	4,700 C
AGS 221-21	1,317,148 C''

(20) By adding a new section to read as follows:

“SECTION 171.10. Any law to the contrary notwithstanding, the appropriations which are denoted as necessary to qualify for federal aid financing and reimbursement under Act 296, Session Laws of Hawaii 1991, section 165, as amended and renumbered by Act 300, Session Laws of Hawaii 1992, section 5, in the amounts indicated or balances thereof, unallotted, allotted, encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
TRN 595-90	\$ 10,673 D
DEF 110-13	59,314 C
DEF 110-14	49,087 C
DEF 110-15	4,375 C
DEF 110-16	5,885 C
DEF 110-17	30,000 C
DEF 110-17	20,000 N
DEF 110-18	20,000 C



<u>Item No.</u>	<u>Amount (MOF)</u>
DEF 110-18	10,000 N
DEF 110-19	33,016 C''

(21) By adding a new section to read as follows:

“SECTION 171.11. Any law to the contrary notwithstanding, the appropriations under Act 296, Session Laws of Hawaii 1991, section 165, as amended and renumbered by Act 300, Session Laws of Hawaii 1992, section 5, in the amounts indicated or balances thereof, unallotted, allotted, encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
AGR 141-10	\$ 267 C
LNR 402-4	38,002 C
HHL 602-20	80,050 C
CCA 701-4	25,258 C
LNR 806-14	10,000 C
LNR 806-23	52,115 C
BED 104-6	6,007 C''

(22) By adding a new section to read as follows:

“SECTION 171.12. Any law to the contrary notwithstanding, the general fund appropriation under Act 272, Session Laws of Hawaii 1992, in the amount of \$350,000, or balances thereof, unallotted, allotted, encumbered and unrequired, are hereby lapsed.”

(23) By adding a new section to read as follows:

“SECTION 171.13. Any law to the contrary notwithstanding, the appropriations which are denoted as necessary to qualify for federal aid financing and reimbursement under Act 316, Session Laws of Hawaii 1989, section 222, as amended and renumbered by Act 299, Session Laws of Hawaii 1990, section 6, in the amounts indicated or balances thereof, unallotted, allotted, encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
TRN 511-62B	\$ 6,534 C
TRN 531-64	54,238 C
TRN 561-70A	5 C
TRN 595-79	10,559 B
LNR 402-2	11,414 C
LNR 806-8	27 C
LNR 806-14	43,618 C
DEF 110-10	17,109 C
DEF 110-11	55,670 C''

(24) By adding a new section to read as follows:

“SECTION 171.14. Any law to the contrary notwithstanding, the appropriations under Act 316, Session Laws of Hawaii 1989, section 222, as amended and renumbered by Act 299, Session Laws of Hawaii 1990, section 6, in the amounts indicated or balances thereof, unallotted, allotted, encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
AGR 192-10	\$ 150 C
LNR 806-17	5,000 C
AGS 221-18	1,000 A
AGS 221-22C	196,821 A
AGS 221-23B	127,591 C''

(25) By adding a new section to read as follows:

“SECTION 171.15. Any law to the contrary notwithstanding, the appropriations which are denoted as necessary to qualify for federal aid financing and reimbursement under Act 216, Session Laws of Hawaii 1987, section 280, as amended and renumbered by Act 390, Session Laws of Hawaii 1988, section 6, in the amount indicated or balances thereof, unallotted, allotted, encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
BED 120-17A	\$ 2,149 C
LNR 141-31	10,833 C
LNR 141-35	66,289 C
TRN 501-39	779 D
TRN 501-43	20 D
TRN 501-44	42,583 D
TRN 501-45	777 D
TRN 501-46	1 D
TRN 501-48	2 D
TRN 501-50	7,444 D
TRN 501-54	3 D
TRN 511-62	1 D
TRN 531-68	20,513 D
TRN 531-72	43,769 D
TRN 561-80	11 D
TRN 595-89	50,636 D
LNR 806-40	4 C
LNR 809-61A	900,000 C
DEF 110-7	1,496 C
DEF 110-8	168 C
DEF 110-9	7,933 C
DEF 110-11	50,000 C
DEF 110-12	24,503 C
DEF 110-13	51,637 C
DEF 110-13A	1,668 C''

(26) By adding a new section to read as follows:

“SECTION 171.16. Any law to the contrary notwithstanding, the appropriations which are denoted as necessary to qualify for federal aid financing and reimbursement under Act 300, Session Laws of Hawaii 1985, section 136, as amended and renumbered by Act 345, Session Laws of Hawaii 1986, section 6, in the amounts indicated or balances thereof, unallotted, allotted, encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
PED 120-10	\$120,975 C
LNR 141-18D	82 D

<u>Item No.</u>	<u>Amount (MOF)</u>
TRN 501-30	2,737 D
TRN 501-33	40,934 D
TRN 501-36	1 D
TRN 501-37	18,446 D
TRN 501-39	101,983 D
TRN 531-50	337 D
TRN 531-54	3,528 D
TRN 541-55	11,186 D
TRN 561-58	293,851 D
TRN 561-59	2 D
TRN 595-63	138,776 D
LNR 402-5	29,990 C
LNR 806-41	44,520 C
LNR 806-52	5,228 C
TRN 801-62	58,494 C
DEF 110-12	43,427 C
DEF 110-15	420 C
DEF 110-16	59 C
DEF 110-17	17,420 C
DEF 110-18	13,986 C
DEF 110-19	12,001 C''

(27) By adding a new section to read as follows:

“SECTION 171.17. Any law to the contrary notwithstanding, the appropriations under Act 300, Session Laws of Hawaii 1985, section 136, as amended and renumbered by Act 345, Session Laws of Hawaii 1986, section 6, in the amounts indicated or balances thereof, unallotted, allotted, encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
LNR 806-23	2,319 C
LNR 806-42	650 C
LNR 806-53	8,727 C''

(28) By adding a new section to read as follows:

“SECTION 171.18. Any law to the contrary notwithstanding, the appropriations which are denoted as necessary to qualify for federal aid financing and reimbursement under Act 301, Session Laws of Hawaii 1983, section 80, as amended and renumbered by Act 285, Session Laws of Hawaii 1984, section 7, in the amounts indicated or balances thereof, unallotted, allotted, encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
PED 120-8A	\$ 33,267 C
TRN 501-36	194,019 D
TRN 501-41	11,164 D
TRN 511-44	2 D
TRN 511-47	6 D
TRN 531-48	2 D
TRN 531-49	105,224 D
TRN 541-53	4,074 D
TRN 595-58	22,631 D

<u>Item No.</u>	<u>Amount (MOF)</u>
TRN 595-59	11,596 B
DEF 110-2	417 C
DEF 110-4	22,849 C
DEF 110-5	148,627 C
DEF 110-6	132,667 C
DEF 110-7	71,100 C
DEF 110-8	27,367 C''

(29) By adding a new section to read as follows:

“SECTION 171.19. Any law to the contrary notwithstanding, the appropriations under Act 301, Session Laws of Hawaii 1983, section 80, as amended and renumbered by Act 285, Session Laws of Hawaii 1984, section 7, in the amount indicated or balance thereof, unallotted, allotted, encumbered and unrequired, is hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
LNR 806-18	\$100,033 C''

(30) By adding a new section to read as follows:

“SECTION 171.20. Any law to the contrary notwithstanding, the appropriations which are denoted as necessary to qualify for federal aid financing and reimbursement under Act 1, Session Laws of Hawaii 1981, first Special Session, section 92, as amended and renumbered by Act 264, Session Laws of Hawaii 1982, section 5, in the amounts indicated or balances thereof, unallotted, allotted, encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
TRN 501-38	\$223,618 D
TRN 501-39	4,350 D
TRN 501-40	5 D
TRN 501-41	9 D
TRN 501-45	9,808 D
TRN 501-46	5,663 D
TRN 501-46B	5,769 D
TRN 531-49A	4 D
TRN 531-50	230,269 D
TRN 561-54A	368,183 D
TRN 595-57	60,321 D
TRN 595-58	157,420 B
DEF 110-10	52,105 C
DEF 110-11	51,695 C
DEF 110-13	139,557 C
DEF 110-14	20,434 C''

(31) By adding a new section to read as follows:

“SECTION 171.21. Any law to the contrary notwithstanding, the appropriation under Act 195, Session Laws of Hawaii 1975, section 91, as amended by Act 226, Session Laws of Hawaii 1976, section 7, in the amount indicated or balance thereof, unallotted, allotted, encumbered and unrequired, is hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
TRN 511-25	\$ 30,000 D''

(32) By adding a new section to read as follows:

“SECTION 171.22. Any law to the contrary notwithstanding, the appropriations which are denoted as necessary to qualify for federal aid financing and reimbursement under Act 218, Session Laws of Hawaii 1973, section 72, as amended and renumbered by Act 218, Session Laws of Hawaii 1974, section 6, in the amounts indicated or balances thereof, unallotted, allotted, encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
TRN 512-68	\$ 2,600 D
DEF 111-7	29,000 C
DEF 111-8	42,000 C
DEF 112-12	5,000 C
DEF 113-14	51,600 C''

SECTION 7. PART VI, Act 328, Session Laws of Hawaii 1997, is amended:

(1) By adding a new section to read as follows:

“SECTION 180.1. HOSPITAL REVENUE BONDS. The Hawaii Health Systems Corporation is authorized to issue hospital revenue bonds for hospital capital improvements program projects authorized in part II and listed in part IV of this Act and designated to be financed by revenue bond funds, in such principal amount as shall be required to yield the amounts appropriated for such capital improvements program projects, and if so determined by the corporation and approved by the governor, such additional principal amount as may be deemed necessary by the corporation to pay interest on such hospital revenue bonds during the estimated period of construction of the capital improvements program project for which such hospital revenue bonds are issued, to establish, maintain, or increase reserves for such hospital revenue bonds, and to pay all or any part of the expenses related to the issuance of such hospital revenue bonds. The aforementioned hospital revenue bonds shall be issued pursuant to the provisions of part III of chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time, except that such bonds shall be issued in the name of the corporation and not in the name of the state. The principal of and interest on such hospital revenue bonds, to the extent not paid from the proceeds of such hospital revenue bonds, shall be payable from and secured by the revenues derived from one or more public health facility and related facilities under the ownership of the state or operated and managed by the corporation, and from federal moneys received by the state or any corporation thereof which are available to pay principal of and/or interest on indebtedness of the state, or such part of any thereof as the corporation may determine, including other rates, rents, fees or changes currently or hereafter derived from or arising through the ownership, operation, and management of hospitals and related facilities and the furnishings and supplying of the services thereof. The expenses related to the issuance of such hospital revenue bonds, to the extent not paid from the proceeds of such bonds, shall be paid from the facility administration fund of the corporation.”

(2) By adding a new section to read as follows:

“SECTION 181.1. Provided that for any issuance of general obligation bonds by the department of budget and finance, there shall be a report provided to the legislature; provided further that the report shall include, but not be limited to, amount of issuance, interest rate, amortization schedule, and projected annual

savings on bonds that are refinanced; provided further that this report shall be submitted to the legislature no later than fourteen days after each issuance.”

(3) By adding a new section section to read as follows:

“SECTION 181.2. Provided that for any sale of certificates of participation by any executive branch agency, there shall be a report provided to the house finance committee and senate ways and means committee; provided further that this report shall be submitted no later than twenty days prior to the convening of the 1999 regular session.”

(4) By adding a new section to read as follows:

“SECTION 181.3. Provided that for all capital improvements projects reported by each department to be lapsed on June 30, 1998, the department of budget and finance, and the department of accounting and general services shall submit a report to the house finance committee and senate ways and means committee detailing all lapsed projects by department, means of financing, project title, item number, and cost element no later than thirty days after the close of fiscal year 1998.”

(5) By amending section 183 to read as follows:

“SECTION 183. Any law or any provision of this Act to the contrary notwithstanding, the appropriations made for capital improvement projects authorized under this Act shall not lapse at the end of the fiscal biennium for which the appropriation is made; provided that all [general funded, general obligation and reimbursable general obligation bond funded] appropriations made to be expended in fiscal biennium 1998-99 which are unencumbered as of June 30, 2000, shall lapse as of that date; [provided further that this lapsing date shall not apply to appropriations for projects described in section 140A of this Act where the means of funding is designated to be the state educational facilities improvement special fund, and where such appropriations have been authorized for more than three years for the construction or acquisition of public school facilities;] and provided further that this lapsing date shall not apply to appropriations for projects described in section 140A of this Act which are denoted as necessary to qualify for federal aid financing and reimbursement and which appropriations in their entirety the legislature hereby determines are necessary to qualify for federal aid financing and reimbursement.”

(6) By amending section 187 to read as follows:

“SECTION 187. In the event that the authorized appropriations specified for a capital improvement project listed in this Act is insufficient and where the source of funding is designated as special funds, general obligation bond fund with debt service cost to be paid from special funds, [or] revenue bond funds, or revolving funds, the governor may make supplemental allotments from the special fund responsible for cash or debt service payments for the projects or transfer unrequired balances from other unlapsed projects in this or prior appropriation acts which authorized the use of special funds, general obligation bond fund with debt service costs to be paid from special funds, [or] revenue bond funds, or revolving funds; provided that such supplemental allotments shall not be used to increase the scope of the project; provided further that such supplemental allotments shall not impair the ability of the fund to meet the purposes for which it was established and provided further that the governor shall submit a report to the legislature no later than twenty days prior to the convening of the 1998 and 1999 regular sessions.”

(7) By adding a new section to read as follows:

“SECTION 188.1. Provided that for all federal funds actually received or expected for fiscal year 1999, each department shall submit a report to the legislature detailing such funds; provided further that this report shall detail the amount of funds received or expected, a brief narrative of the purposes for such funds, and a summary of any state matching requirements; provided further that the governor may allow for an increase in the federal fund ceiling for the department to accommodate the

expenditure of such funds; and provided further that the governor shall submit to the legislature a summary of all such funds received no later than December 1, 1998.”

(8) By amending section 215 to read as follows:

“SECTION 215. Provided that of the general obligation bond funded capital improvements program projects authorized in part II and listed in part IV of this Act, all projects that have been initiated by the governor and/or the department of budget and finance shall be identified in a report; provided further that this report shall for each project include the amount of funds allotted, encumbered and expended; provided further that the department of budget and finance shall prepare this report on a quarterly basis; and provided [furhter] further that this report shall be submitted to the legislature no later than three weeks following the close of each fiscal quarter.”

SECTION 8. If any portion of this Act or its application to any person, entity or circumstance is held to be invalid for any reason, then it is hereby declared that the invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be expended to fulfill the objectives of such appropriation to the extent possible.

SECTION 9. In the event manifest clerical, typographical or other mechanical errors are found in this Act, the governor is hereby authorized to correct such errors.

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.<sup>1</sup> Nothing in this Act shall affect the validity or continuing effectiveness of any provisions of Act 328, Session Laws of Hawaii 1997, not repealed or modified by this Act.

SECTION 11. This Act shall take effect upon its approval.

(Approved June 16, 1998.)

#### Note

1. Edited accordingly.

## ACT 117

S.B. NO. 3105

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to article 14 to be appropriately designated and to read as follows:

“**§431:14- Rate adjustments, mandated.** (a) Except as otherwise provided by law, the commissioner may mandate insurers to submit new filings for any type of insurance under section 431:14-102 when the commissioner has actuarially sound information that current rates may be excessive, inadequate, or unfairly discriminatory.

(b) Insurers shall submit the new rate filings within one hundred twenty days of the commissioner’s mandate.

(c) The new rate filings shall be subject to the rate filing requirements under section 431:14-104.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved June 22, 1998.)

**Note**

- 1. Edited pursuant to HRS §23G-16.5.

**ACT 118**

H.B. NO. 3443

A Bill for an Act Relating to Loans.

*Be It Enacted by the Legislature of the State of Hawaii:*

**PART I.**

SECTION 1. The legislature finds that certain counties in the State are economically depressed, exhibiting unemployment rates in excess of seven per cent. These high unemployment rates are directly attributable to the closure of sugar operations. However, diversified agriculture stands as an opportunity to employ the agriculturally-oriented labor force that once worked for the sugar industry on land once used to grow sugar.

The purpose of this part is to facilitate the development of diversified agriculture in these depressed areas by initiating a pilot loan project. The department of agriculture shall earmark loan funds from its agricultural loan revolving fund to qualified applicants from these depressed areas.

SECTION 2. In addition to any loan authorized under chapter 155, Hawaii Revised Statutes, the department of agriculture shall make loans from the agricultural loan revolving fund to qualified farmers in economically depressed areas under the following conditions:

- (1) Loans shall be limited to class "C" farm operating loans;
- (2) Loans shall not exceed \$200,000 each;
- (3) Interest charged on direct loans shall not exceed five per cent per year simple interest;
- (4) Interest charged on loans in participation shall not exceed five per cent per year simple interest. Interest charged on the private lender's share of the loan shall not exceed two per cent above the prime rate charged by the two largest banks in the State identified by the department of commerce and consumer affairs. If the prime rates of the two largest banks are different, the lower prime rate of the two shall apply;
- (5) The term of each loan shall not exceed twelve years;
- (6) The commencement date for the repayment on the first installment on the principal or interest of each loan may be deferred by the chairperson of the board of agriculture for a period not to exceed twenty-four months; and
- (7) The credit elsewhere requirement shall be waived.

The department may contract with any financial institution for services including servicing or administering loans pursuant to this section.

As used in this section, "economically depressed areas" means islands having unemployment rates in excess of seven per cent.

SECTION 3. The department of agriculture shall report on loans to qualified farmers in economically depressed areas from the agricultural loan revolving fund in its annual report.

SECTION 4. There is appropriated out of the agricultural loan revolving fund the sum of \$2,000,000 for fiscal year 1998-1999 for loans to farmers in economically depressed areas.



The sum appropriated shall be expended by the department of agriculture for the purposes of this part.

SECTION 5. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
ECONOMIC DEVELOPMENT LOANS**

§ -1 **Definitions.** As used in this chapter, unless the context requires otherwise:

“Committee” means the economic development administrative procedures loan committee established in section -3.

“Fund” means the economic development loan fund established in section -2.

§ -2 **Economic development loan fund; establishment.** Notwithstanding any other provision to the contrary, there is established a special fund within the state treasury to be known as the economic development loan fund into which may be deposited moneys from economic development loans that are available to the department of business, economic development, and tourism, and the department of agriculture.

§ -3 **Economic development administrative procedures loan committee; establishment.** The economic development loan fund shall be administered by the economic development administrative procedures loan committee, which shall be composed of seven members as follows:

- (1) The director of business, economic development, and tourism, or designee, as an ex officio member;
- (2) The chair of the board of agriculture, or designee, as an ex officio member; and
- (3) Five members of financial institutions in the State, who shall be appointed by the governor pursuant to section 26-34.

The loan committee shall establish procedures, subject to the approval of the directors of agriculture and business, economic development, and tourism, under which financial institutions shall access the economic development loan fund, including fees, charges, the amount and form of security, and loan terms.

Members shall serve without pay but shall be reimbursed for their actual and necessary expenses, including travel expenses incurred in carrying out their duties.’’

PART II.

SECTION 6. Section 209-26, Hawaii Revised Statutes, is amended to read as follows:

**“§209-26 Administration.** (a) Except as otherwise provided, the director of business, economic development, and tourism is designated as the administrator responsible for the administration of this part. The director shall:

- (1) Administer loans for the purpose and according to this part; and
- (2) [Promulgate] Adopt rules [and regulations] to carry out the purposes of this part.

(b) The department may contract with any financial institution for services including servicing or administering loans pursuant to this section.

(c) For purposes of this section, “financial institution” means any organization authorized to do business under state or federal laws relating to financial institutions, including without limitation, banks, savings banks, savings and loan companies or associations, financial services loan companies, and credit unions.’’

SECTION 7. Section 210-6, Hawaii Revised Statutes, is amended to read as follows:

“**§210-6 Direct loans, terms, and restrictions.** (a) The department of business, economic development, and tourism may make loans to small business concerns for the financing of plant construction, conversion, expansion, the acquisition of land for expansion, the acquisition of equipment, machinery, supplies, or materials, or for the supplying of working capital. The loans may be made in conjunction with loans made by other financial institutions, including the [SBA.] Small Business Administration. Where the loans made by the department are secured, the security may be subordinated to the loans made by other financial institutions, when the subordination is required [in order] to obtain loans from such institutions. The necessity for and the extent of security required in any loan shall be determined by the director of business, economic development, and tourism.

(b) The foregoing powers shall be subject, however, to the following restrictions and limitations:

- (1) No loans shall be granted unless financial assistance is not available to the applicant. The condition may be waived by the director for participation loans with a private financial institution[.];
- (2) The amount of the loan or loans to any one applicant at any one time shall in no case exceed a total of \$1,000,000[.];
- (3) No loan shall be made for a term exceeding twenty years[.];
- (4) Each loan shall bear simple interest at a rate of one per cent below the prime rate or at a rate of seven and one-half per cent a year, whichever is lower. For purposes of this paragraph, the prime rate shall be determined on January 1 and July 1 of each year, and shall be the rate charged by the two largest banks in the State of Hawaii identified by the department of commerce and consumer affairs. Should there be a difference in rate charged by the institutions, the lower of the two shall be [utilized.] used;
- (5) The commencement date for the repayment of the first installment on the principal of each loan may be deferred by the director, but in no event shall such initial payment be deferred in excess of five years[.]; and
- (6) The payment of interest on the principal of a loan may be deferred by the director, but in no event shall interest payments be deferred in excess of two years from the date of issuance of the loan.

(c) Any restriction or limitation in subsection (b) may be waived at the director’s discretion where the applicant is a reuse or recycling business that meets the following criteria:

- (1) The business has potential to have an impact on overall solid waste reduction and achievement of the State’s reduction goals;
- (2) The business addresses the alternative management of wastes identified by the solid waste disposal facility operators as problematic;
- (3) The business maximizes economic benefits through import reduction or an increase in the tax base;
- (4) The business has potential for job creation; and
- (5) The business has a plan that accurately reflects detailed and justifiable expenses and revenues, shows potential for profit, and an ability to meet market demand for end products.

(d) The department may contract with any financial institution for services including servicing or administering loans pursuant to this section.

(e) For purposes of this section, “financial institution” means any organization authorized to do business under state or federal laws relating to financial

institutions, including without limitation, banks, savings banks, savings and loan companies or associations, financial services loan companies, and credit unions.”

SECTION 8. Section 219-9, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§219-9]]~~ **Direct loans.** (a) The department of agriculture may make loans directly to qualified aquaculturists who are unable to obtain sufficient funds at reasonable rates from private lenders either independently or under section 219-7 or 219-8. Loans made under this section shall be authorized only if loans cannot be obtained from the relevant farm credit lender and two other private lenders.

(b) Loans made under this section shall be limited by section 219-6.

(c) Loans made under this section shall bear simple interest on the unpaid principal balance, charged on the actual amount disbursed. The interest rate for class “A”, class “B”, and class “C” loans shall be set by rule, pursuant to chapter 91.

(d) The department may contract with any financial institution for services including servicing or administering loans pursuant to this section.

(e) For purposes of this section, “financial institution” means any organization authorized to do business under state or federal laws relating to financial institutions, including without limitation, banks, savings banks, savings and loan companies or associations, financial services loan companies, and credit unions.”

SECTION 9. Act 311, Session Laws of Hawaii 1996, is amended by amending section 2 to read as follows:

“SECTION 2. Section 210-6, Hawaii Revised Statutes, is amended to read as follows:

“**§210-6 Direct loans, terms, and restrictions.** (a) The department of business, economic development, and tourism may make loans to small business concerns for the financing of plant construction, conversion, expansion, the acquisition of land for expansion, the acquisition of equipment, machinery, supplies, or materials, or for the supplying of working capital. The loans may be made in conjunction with loans made by other financial institutions, including the [SBA.] Small Business Administration. Where the loans made by the department are secured, the security may be subordinated to the loans made by other financial institutions, when the subordination is required [in order] to obtain loans from such institutions. The necessity for and the extent of security required in any loan shall be determined by the director of business, economic development, and tourism.

(b) The department may make loans to business concerns located in a county with a population of less than 150,000; provided that the interest on loans made under this subsection shall bear simple interest at the rate of three per cent below the prime rate or at a rate of five and one-half per cent a year, whichever is lower. For purposes of this subsection, the prime rate shall be determined on January 1 and July 1 of each year, and shall be the rate charged by the two largest banks in the State of Hawaii identified by the department of commerce and consumer affairs. Should there be a difference in rate charged by the institutions, the lower of the two shall be [utilized.] used. Payments required under loans made under this subsection may be deferred, but no loans made under this subsection shall be forgiven.

(c) Except as may be expressly provided otherwise for loans made under subsection (b), the foregoing powers shall be subject to the following restrictions and limitations:

- (1) No loans shall be granted unless financial assistance is not available to the applicant. The condition may be waived by the director for participation loans with a private financial institution;

- (2) The amount of the loan or loans to any one applicant at any one time shall in no case exceed a total of \$1,000,000;
- (3) No loan shall be made for a term exceeding twenty years;
- (4) Each loan shall bear simple interest at a rate of one per cent below the prime rate or at a rate of seven and one-half per cent a year, whichever is lower. For purposes of this paragraph, the prime rate shall be determined on January 1 and July 1 of each year, and shall be the rate charged by the two largest banks in the State of Hawaii identified by the department of commerce and consumer affairs. Should there be a difference in rate charged by the institutions, the lower of the two shall be [utilized;] used;
- (5) The commencement date for the repayment of the first installment on the principal of each loan may be deferred by the director, but in no event shall such initial payment be deferred in excess of five years; and
- (6) The payment of interest on the principal of a loan may be deferred by the director, but in no event shall interest payments be deferred in excess of two years from the date of issuance of the loan.

(d) Except as may be expressly provided otherwise for loans made under subsection (b), any restriction or limitation in subsection (c) may be waived at the director's discretion where the applicant is a reuse or recycling business that meets the following criteria:

- (1) The business has potential to have an impact on overall solid waste reduction and achievement of the State's reduction goals;
- (2) The business addresses the alternative management of wastes identified by the solid waste disposal facility operators as problematic;
- (3) The business maximizes economic benefits through import reduction or an increase in the tax base;
- (4) The business has potential for job creation; and
- (5) The business has a plan that accurately reflects detailed and justifiable expenses and revenues, shows potential for profit, and an ability to meet market demand for end products.['']

(e) The department may contract with any financial institution for services including servicing or administering loans pursuant to this section.

(f) For purposes of this section, "financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including without limitation, banks, savings banks, savings and loan companies or associations, financial services loan companies, and credit unions.'''

### PART III.

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval; provided that:

- (1) Part I shall take effect on July 1, 1998, and shall be repealed on June 30, 2000; and
- (2) Section 7 shall take effect on July 1, 1999.

(Approved June 22, 1998.)

## ACT 119

H.B. NO. 1800

A Bill for an Act Relating to Cash Management of State Funds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 36-21, Hawaii Revised Statutes, is amended to read as follows:

**“§36-21 Short-term investment of state moneys.** The director of finance may invest any moneys of the State which in the director’s judgment are in excess of the amounts necessary for meeting the immediate requirements of the State and where in the director’s judgment the action will not impede or hamper the necessary financial operations of the State in:

- (1) Any bonds or interest-bearing notes or obligations:
  - (A) Of the State (including state director of finance’s warrant notes issued pursuant to chapter 40);
  - (B) Of the United States;
  - (C) For which the faith and credit of the United States are pledged for the payment of principal and interest;
- (2) Federal land bank bonds;
- (3) Joint stock farm loan bonds;
- (4) Federal Home Loan Bank notes and bonds;
- (5) Federal Home Loan Mortgage Corporation bonds;
- (6) Federal National Mortgage Association notes and bonds;
- (7) Securities of a mutual fund whose portfolio is limited to bonds or securities issued or guaranteed by the United States or an agency thereof;
- (8) Repurchase agreements fully collateralized by any such bonds or securities;
- (9) Federally insured savings accounts;
- (10) Time certificates of deposit;
- (11) Certificates of deposit open account;
- (12) Repurchase agreements with federally insured banks, savings and loan associations, and financial services loan companies;
- (13) Student loan resource securities including:
  - (A) Student loan auction rate securities;
  - (B) Student loan asset-backed notes;
  - (C) Student loan program revenue notes and bonds; and
  - (D) Securities issued pursuant to Rule 144A of the Securities Act of 1933, including any private placement issues;

issued with either bond insurance or overcollateralization guaranteed by the United States Department of Education; provided all insurers maintain a triple-A rating by Standard & Poors, Moody’s, Duff & Phelps, Fitch, or any other major national securities rating agency; provided that the investments are due to mature not more than five years from the date of investment. Income derived [therefrom] from those investments shall be a realization of the general fund[.]; provided that income earned from moneys invested by the general funds, special funds, bond funds, and trust and agency funds on an investment pool basis shall be paid into and credited to the respective funds based on the contribution of moneys into the investment pool by each fund. As used in this section, “investment pool” means the aggregate of state treasury moneys that are maintained in the custody of the director of finance for investment and reinvestment without regard to fund designation.

**ACT 120**

Except with respect to an early withdrawal penalty on an investment permitted by this section, the amount of such penalty being mutually agreed at the time of acquisition of such investment, no investment permitted by this section shall require or may in the future require payments by the State, whether unilateral, reciprocal, or otherwise, including margin payments, or shall bear interest at a variable rate which causes or may cause the market price of such investment to fluctuate; provided that such limitation shall not apply to money market mutual funds which (1) invest solely in (A) direct and general obligations of the United States of America or (B) obligations of any agency or instrumentality of the United States of America the payment of the principal and interest on which are unconditionally guaranteed by the full faith and credit of the United States of America, (2) are rated at the time of purchase “AAA-m-G” or its equivalent by Standard & Poor’s Ratings Group, and (3) are open-end management investment companies regulated under the Investment Company Act of 1940, as amended, which calculate their current price per share pursuant to Rule 2a-7 (17 Code of Federal Regulations section 270.2a-7) promulgated under such act.

Furthermore, the State shall not acquire any investment or enter into any agreement in connection with the acquisition of any investment or related to any existing investment held by the State, which would require or may in the future require any payment by the State, whether unilateral, reciprocal, or otherwise, such as swap agreements, hedge agreements, or other similar agreements. For purposes of this section, a swap or hedge payment is any payment made by the State in consideration or in exchange for a reciprocal payment by any person, such as a variable rate payment in exchange for a fixed rate payment, a fixed rate payment in exchange for a variable rate payment, a payment when a cap or a floor amount is exceeded, or other similar payment.”

SECTION 2. Section 38-9, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed.<sup>1</sup> New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 22, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 120**

H.B. NO. 2426

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that Act 99, Session Laws of Hawaii 1990, which amended section 235-5.5(f), Hawaii Revised Statutes, neglected to take into consideration individuals who established an individual housing account prior to January 1, 1990, and had yet to purchase a residential property with distributions from the account. Prior to enactment of Act 99, all individuals who purchased their first principal residence with distributions from their individual housing account incurred an increase in gross income and a tax liability only upon the sale of the residential property. Many individuals invested in the individual housing account based on these gross income deferral and tax liability provisions.

With the enactment of Act 99, two categories of individuals were created. The first category, described in 235-5.5(f)(1), Hawaii Revised Statutes, included individuals who purchased their residential property prior to January 1, 1990. These

individuals incurred an increase in gross income and a tax liability as they would have prior to Act 99. The second category of individuals, described in section 235-5.5(f)(2), Hawaii Revised Statutes, included individuals who purchased their residential property after December 31, 1989. These individuals were required to report increases in gross income over a ten-year period based on the amount distributed from the individual housing account upon purchase of the residential property rather than upon sale as provided in section 235-5(f)(1), Hawaii Revised Statutes.

The legislature also finds that individuals who invested in an individual housing account based on the law prior to enactment of Act 99 and had not purchased a residential property by December 31, 1989, are subject to the gross income and tax liability provisions of the second category described in section 235-5.5(f)(2), Hawaii Revised Statutes, which did not exist at the time the individuals originally invested in the individual housing account. Therefore, these individuals who have yet to purchase their first principal residence with distributions from their individual housing account are subject to gross income and tax liability provisions that did not exist when they originally opened the account prior to enactment of Act 99. Instead of being able to defer gross income increases until the sale of the residential property or even indefinitely if the individual never sells, these individuals are now required to report gross income increases upon purchase with no deferment. The legislature believes that many individuals would not have invested in an individual housing account prior to enactment of Act 99 in 1990 had the gross income increase deferment not existed.

The legislature also finds that individuals who invested in an individual housing account claim to have been informed by various financial institutions, including banks that service individual housing accounts, that upon sale or conveyance of a residential property purchased with a housing account, an additional ten per cent of the distribution would be included in the gross income of the individual under section 235-5.5(f), Hawaii Revised Statutes, when applicable. The department of taxation also issued rules under section 235-5.5(f), Hawaii Revised Statutes, similarly interpreting section 235-5.5(f) in 1983, which continue to be effective. This interpretation was incorrect. Under section 235-5.5(f), Hawaii Revised Statutes, an additional ten per cent of the distribution would be included in the tax liability, not the gross income, of the individual. The legislature cannot determine exactly how many individuals relied on these interpretations. However, the legislature finds that it is reasonable to believe that a substantial number of people did not read the actual statute but reasonably relied on the incorrect interpretations of certain banks and of the department of taxation rules published in 1983. Furthermore, the legislature finds that many individuals would not have invested in an individual housing account had the true intent of section 235-5.5(f), Hawaii Revised Statutes, been correctly communicated to the individuals.

The purpose of this Act is to allow individuals who opened an individual housing account prior to enactment of Act 99 in 1990 to elect to be subject to the gross income deferment and tax liability provisions effective when they originally invested in their individual housing account and to conform section 235-5.5(f), Hawaii Revised Statutes, to the widely accepted and published interpretation of the statute.

SECTION 2. Section 235-5.5, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) If the individual for whose benefit the individual housing account was established purchases a residential property in Hawaii with the distribution from the individual housing account:

- (1) Before January 1, 1990, and if the individual sells in any manner or method or by use of any instrument conveying or transferring the

residential property, the gross income of the individual under this chapter for the taxable year in which the residential property is sold, conveyed, or transferred, whichever is applicable, shall include an amount equal to the amount of the distribution from the individual housing account, and in addition, the [tax liability] gross income of the individual shall be increased by an amount equal to ten per cent of the total distribution from the individual housing account[.]; or

- (2) After December 31, 1989, the individual shall report one-tenth of the total distribution from the individual housing account used to purchase the residential property as gross income in the taxable year in which the distribution is completed and in each taxable year thereafter until all of the distribution has been included in the individual's gross income at the end of the tenth taxable year after the purchase of the residential property. If the individual sells in any manner or method or by use of any instrument conveying or transferring the residential property, the gross income of the individual under this chapter for the taxable year in which the residential property is sold, conveyed, or transferred, whichever is applicable, shall include an amount equal to the amount of the distribution from the individual housing account not previously reported as gross income, and in addition, the tax liability of the individual shall be increased by an amount equal to ten per cent of the total distribution from the individual housing account. If the individual sells the residential property in any manner as provided in this paragraph after all of the distribution has been included in the individual's gross income at the end of the tenth taxable year after the purchase of the residential property, the tax liability of the individual shall not be increased by an amount equal to ten per cent of the total distribution from the individual housing account.

An individual who purchased a residential property in Hawaii with the distribution from an individual housing account before January 1, 1990, who is subject to paragraph (1) may elect to report as provided in paragraph (2). The election shall be made before January 1, 1991. If the individual makes the election, the individual shall report one-tenth of the total distribution from the individual housing account as gross income in the taxable year in which the election occurs and in each taxable year thereafter until all of the distribution has been included in gross income as provided by paragraph (2). If the individual making the election sells the residential property in any manner as provided in paragraph (2), then the individual shall include as income the amount of the distribution not previously reported as income and increase the individual's tax liability as provided in the second sentence of paragraph (2), except when the third sentence of paragraph (2) applies.

In the alternative, any individual subject to paragraph (2) who established the individual housing account before January 1, 1990, may elect within one year after the date of purchase, to be subject to paragraph (1).'

SECTION 3. This Act shall not apply to the purchase or sale of a residential property subject to section 235-5.5(f)(2) Hawaii Revised Statutes, occurring prior to January 1, 1997.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1996.

(Approved June 22, 1998.)



## ACT 121

H.B. NO. 2496

A Bill for an Act Relating to Services for the Indigent.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 305, Session Laws of Hawaii 1996, section 2, is amended by amending subsection (c) to read as follows:

“(c) There is established a special fund to be known as the indigent legal assistance fund. The funds raised under subsections (a) and (b) shall be transmitted to the administrative director of the courts and deposited in the indigent legal assistance fund. All unobligated or unexpended funds as of June 30, [1999,] 2002, shall revert to the general fund. Upon final disbursement of the remaining balances to the general fund on June 30, [1999,] 2002, the indigent legal assistance fund shall be terminated.”

SECTION 2. Act 305, Session Laws of Hawaii 1996, section 2, is amended by amending subsection (d) to read as follows:

“(d) This fund shall be administered by the [office of community services,] administrative director of the courts, or pursuant to contract with the [office of community services.] administrative director of the courts. If the fund is administered pursuant to contract with the [office of community services,] administrative director of the courts, the contractor shall be a nonprofit organization that has at least one year’s experience in administering grants to providers of civil legal services for indigents. The fund administrator shall receive not more than five per cent of the total amount collected under this section each fiscal year as compensation for performing the duties under this section.”

SECTION 3. Act 305, Session Laws of Hawaii 1996, is amended by amending section 3 to read as follows:

“SECTION 3. The commission on access to justice shall annually review the filing fee surcharge program created by this Act to determine whether it is meeting the civil legal needs of indigent persons and shall present its findings and recommendations to the legislature no later than January 1[, 1998.] of each year.”

SECTION 4. Act 305, Session Laws of Hawaii 1996, is amended by amending section 6 to read as follows:

“SECTION 6. This Act shall take effect on July 1, 1996, and shall be repealed on June 30, [1999.] 2002.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 22, 1998.)

A Bill for an Act Relating to Foreclosures.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 667, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . ALTERNATE POWER OF SALE FORECLOSURE PROCESS**

**§667-A Alternate power of sale process; definitions.** (a) The process in this part is an alternative power of sale process to the foreclosure by action and the foreclosure by power of sale in part I.

(b) As used in this part:

“Borrower” means the borrower, maker, cosigner, or guarantor under a mortgage agreement.

“Foreclosing mortgagee” means the mortgagee that intends to conduct a power of sale foreclosure; provided that the mortgagee is a federally insured bank, a federally insured savings and loan association, a federally insured savings bank, a depository financial services loan company, a nondepository financial services loan company, a credit union insured by the National Credit Union Administration, a bank holding company, a foreign lender as defined in section 207-11, or an institutional investor as defined in section 454-1.

“Mailed” means to be sent by regular mail, postage prepaid, and by certified, registered, or express mail, postage prepaid and return receipt requested.

“Mortgage” means a mortgage, security agreement, or other document under which property is mortgaged, encumbered, pledged, or otherwise rendered subject to a lien for the purpose of securing the payment of money or the performance of an obligation.

“Mortgage agreement” includes the mortgage, the note or debt document, or any document amending any of the foregoing.

“Mortgagee” means the current holder of record of the mortgagee’s or the lender’s interest under the mortgage, or the current mortgagee’s or lender’s duly authorized agent.

“Mortgaged property” means the property that is subject to the lien of the mortgage.

“Mortgagor” means the mortgagor or borrower named in the mortgage and, unless the context otherwise indicates, includes the current owner of record of the mortgaged property whose interest is subject to the mortgage.

“Open house” means a public showing of the mortgaged property during a scheduled time period.

“Power of sale” or “power of sale foreclosure” means a nonjudicial foreclosure under this part when the mortgage contains, authorizes, permits, or provides for a power of sale, a power of sale foreclosure, a power of sale remedy, or a nonjudicial foreclosure.

“Property” means property (real, personal, or mixed), an interest in property (including fee simple, leasehold, life estate, reversionary interest, and any other estate under applicable law), or other interests that can be subject to the lien of a mortgage.

“Record” or “recorded” means a document is recorded or filed with the office of the assistant registrar of the land court under chapter 501 or recorded with the registrar of conveyances under chapter 502, or both, as applicable.

“Served” means to have service of the notice of default made in accordance with the service of process or the service of summons under the Hawaii rules of civil procedure, and under sections 634-35 and 634-36.

**§667-B Notice of default; contents; distribution.** (a) When the mortgagor or the borrower has breached the mortgage agreement, and when the foreclosing mortgagee intends to conduct a power of sale foreclosure under this part, the foreclosing mortgagee shall prepare a written notice of default addressed to the mortgagor, the borrower, and any guarantor. The notice of default shall state:

- (1) The name and address of the current mortgagee;
- (2) The name and last known address of the mortgagor, the borrower, and any guarantor;
- (3) The address or a description of the location of the mortgaged property, and the tax map key number of the mortgaged property;
- (4) The description of the default, and if the default is a monetary default, an itemization of the delinquent amount shall be given;
- (5) The action that must be taken to cure the default, including the amount to cure the default, together with the estimated amount of the foreclosing mortgagee’s attorney’s fees and costs, and all other fees and costs estimated to be incurred by the foreclosing mortgagee related to the default by the deadline date;
- (6) The date by which the default must be cured, which deadline date shall be at least sixty days after the date of the notice of default;
- (7) That if the default is not cured by the deadline date stated in the notice of default, the entire unpaid balance of the moneys owed to the mortgagee under the mortgage agreement will be due, that the mortgagee intends to conduct a power of sale foreclosure to sell the mortgaged property at a public sale without any court action and without going to court, and that the mortgagee or any other person may acquire the mortgaged property at the public sale; and
- (8) The name, address in the State, and the telephone number in the State of the person representing the foreclosing mortgagee.

(b) The notice of default shall also contain wording substantially similar to the following in all capital letters:

“IF THE DEFAULT ON THE LOAN CONTINUES AFTER THE DEADLINE DATE IN THIS NOTICE, THE MORTGAGED PROPERTY MAY BE FORECLOSED AND SOLD WITHOUT ANY COURT ACTION AND WITHOUT GOING TO COURT.

YOU MAY HAVE CERTAIN LEGAL RIGHTS OR DEFENSES. FOR ADVICE, YOU SHOULD CONSULT WITH AN ATTORNEY LICENSED IN THIS STATE.

AFTER THE DEADLINE DATE IN THIS NOTICE, TWO PUBLIC SHOWINGS (OPEN HOUSES) OF THE PROPERTY BY THE LENDER WILL BE HELD, BUT ONLY IF ALL MORTGAGORS (OWNERS) OF THE PROPERTY SO AGREE. TO SHOW THAT ALL OWNERS AGREE TO ALLOW TWO OPEN HOUSES BY THE LENDER, ALL OWNERS MUST SIGN A LETTER SHOWING THEY AGREE. ALL OWNERS MUST SEND THE SIGNED LETTER TO THIS OFFICE AT THE ADDRESS GIVEN IN THIS NOTICE.

THIS OFFICE MUST ACTUALLY RECEIVE THE SIGNED LETTER BY THE DEADLINE DATE IN THIS NOTICE. THE SIGNED LETTER MUST BE SENT TO THIS OFFICE BY CERTIFIED

MAIL, REGISTERED MAIL, OR EXPRESS MAIL, POSTAGE PREPAID AND RETURN RECEIPT REQUESTED.

IF THE SIGNED LETTER IS NOT RECEIVED BY THIS OFFICE BY THE DEADLINE DATE, THE PROPERTY WILL THEN BE SOLD WITHOUT ANY OPEN HOUSES BEING HELD.

EVEN IF THIS OFFICE RECEIVES THE SIGNED LETTER TO ALLOW THE LENDER TO HOLD TWO OPEN HOUSES OF THE PROPERTY, IF ALL OWNERS LATER DO NOT COOPERATE TO ALLOW THE OPEN HOUSES, THE PROPERTY WILL BE SOLD WITHOUT ANY OPEN HOUSES BEING HELD.

ALL FUTURE NOTICES AND CORRESPONDENCE WILL BE MAILED TO YOU AT THE ADDRESS AT WHICH YOU RECEIVED THIS NOTICE UNLESS YOU SEND WRITTEN INSTRUCTIONS TO THIS OFFICE INFORMING THIS OFFICE OF A DIFFERENT ADDRESS. THE WRITTEN INSTRUCTIONS MUST BE SENT TO THIS OFFICE BY CERTIFIED MAIL, REGISTERED MAIL, OR EXPRESS MAIL, POSTAGE PREPAID AND RETURN RECEIPT REQUESTED.’’

- (c) The foreclosing mortgagee shall have the notice of default served on:
  - (1) The mortgagor and the borrower;
  - (2) Any prior or junior creditors having a recorded lien on the mortgaged property before the recordation of the notice of default under section 667-C;
  - (3) The state director of taxation;
  - (4) The director of finance of the county where the mortgaged property is located; and
  - (5) Any other person entitled to receive notice under section 667-5.5.

**§667-C Recordation of notice of default.** Before the deadline date in the notice of default, the notice of default in a recordable form shall be recorded in a manner similar to recordation of notices of pendency of action under section 501-151 or section 634-51, or both, as applicable. The recorded notice of default shall have the same effect as a notice of pendency of action. From and after the recordation of the notice of default, any person who becomes a purchaser or encumbrancer of the mortgaged property shall be deemed to have constructive notice of the power of sale foreclosure and shall be bound by the foreclosure.

**§667-D Cure of default.** (a) If the default is cured as required by the notice of default, the foreclosing mortgagee shall rescind the notice of default. Within fourteen days of the date of the cure, the foreclosing mortgagee shall so notify any person who was served with the notice of default. If the notice of default was recorded, a release of the notice of default shall be recorded.

(b) If the default is not cured as required by the notice of default, the foreclosing mortgagee, without filing a court action and without going to court, may foreclose the mortgage under power of sale to sell the mortgaged property at a public sale.

**§667-E Date, place of public sale of mortgaged property.** (a) The public sale of the mortgaged property shall take place on the later of the following:

- (1) At least sixty days after the public notice of the public sale is distributed under section 667-G; or
- (2) At least fourteen days after the date of the publication of the third public notice advertisement under section 667-G.

(b) The public sale of the mortgaged property shall be held in the county where the mortgaged property is located. However, if the borrower, the mortgagor, and the foreclosing mortgagee all agree in writing, the public sale may be held in a different county in the State. The public sale shall be held during business hours on a business day.

(c) The public sale of the mortgaged property shall be conducted by the foreclosing mortgagee on the date, at the time, and at the place described in the public notice of the public sale.

**§667-F Public showing of mortgaged property.** (a) If the default is not cured as stated in the notice of default, the foreclosing mortgagee shall conduct two open houses of the mortgaged property before the public sale; provided that the foreclosing mortgagee timely received the signed letter of agreement from the mortgagor as required by the notice of default. Only two open houses shall be required even if the date of the public sale is postponed.

(b) Even if the signed letter of agreement is timely received, if there is no subsequent cooperation by the mortgagor to allow two open houses, the public sale may be held without any open houses of the mortgaged property. If the public notice of the public sale advertised the dates and times of the open houses, but there were no open houses because of the lack of cooperation by the mortgagor, the public sale may still be held as advertised, and the public notice of the public sale may not need to be republished.

**§667-G Public notice of public sale; contents; distribution; publication.**

(a) The foreclosing mortgagee shall prepare the public notice of the public sale. The public notice shall state:

- (1) The date, time, and place of the public sale;
- (2) The dates and times of the two open houses of the mortgaged property, or if there will not to be any open houses, the public notice shall so state;
- (3) The unpaid balance of the moneys owed to the mortgagee under the mortgage agreement;
- (4) A description of the mortgaged property, including the address or description of the location of the mortgaged property, and the tax map key number of the mortgaged property;
- (5) The name of the mortgagor and the borrower;
- (6) The name of the foreclosing mortgagee;
- (7) The name of any prior or junior creditors having a recorded lien on the mortgaged property before the recordation of the notice of default under section 667-C;
- (8) The name, the address in the State, and the telephone number in the State of the person in the State conducting the public sale; and
- (9) The terms and conditions of the public sale.

(b) The public notice shall also contain wording substantially similar to the following in all capital letters:

“THE DEFAULT UNDER THE MORTGAGE AGREEMENT MAY BE CURED NO LATER THAN THREE BUSINESS DAYS BEFORE THE DATE OF THE PUBLIC SALE OF THE MORTGAGED PROPERTY BY PAYING THE ENTIRE AMOUNT WHICH WOULD BE OWED TO THE FORECLOSING MORTGAGEE IF THE PAYMENTS UNDER THE MORTGAGE AGREEMENT HAD NOT BEEN ACCELERATED, PLUS THE FORECLOSING MORTGAGEE’S ATTORNEY’S FEES AND COSTS, AND ALL OTHER FEES AND COSTS INCURRED BY THE FORECLOSING MORTGAGEE RELATED TO THE DEFAULT, UNLESS OTHERWISE AGREED TO BETWEEN THE

FORECLOSING MORTGAGEE AND THE BORROWER. THERE IS NO RIGHT TO CURE THE DEFAULT OR ANY RIGHT OF REDEMPTION AFTER THAT TIME. IF THE DEFAULT IS SO CURED, THE PUBLIC SALE SHALL BE CANCELED.”

(c) If the default is not cured as required by the notice of default, the foreclosing mortgagee shall have a copy of the public notice of the public sale of the mortgaged property:

- (1) Mailed or delivered to the mortgagor and the borrower at their respective last known addresses;
- (2) Mailed or delivered to any prior or junior creditors having a recorded lien on the mortgaged property before the recordation of the notice of default under section 667-C;
- (3) Mailed or delivered to the state director of taxation;
- (4) Mailed or delivered to the director of finance of the county where the mortgaged property is located;
- (5) Posted on the mortgaged property or on such other real property of which the mortgaged property is a part; and
- (6) Mailed or delivered to any other person entitled to receive notice under section 667-5.5.

(d) The foreclosing mortgagee shall have the public notice of the public sale published in the classified section of a daily newspaper of general circulation in the county where the mortgaged property is located. The public notice shall be published once each week for three consecutive weeks (three publications). The public sale shall take place no sooner than fourteen days after the date of the publication of the third public notice advertisement.

**§667-H Postponement, cancellation of sale.** (a) The public sale may be either postponed or canceled by the foreclosing mortgagee. Notice of the postponement or the cancellation of the public sale shall be announced by the foreclosing mortgagee at the date, time, and place of the last scheduled public sale.

(b) If there is a postponement of the public sale of the mortgaged property, a new public notice of the public sale shall be published once in the format described in section 667-G. The new public notice shall state that it is a notice of a postponed sale. The public sale shall take place no sooner than fourteen days after the date of the publication of the new public notice. No sooner than fourteen days before the date of the public sale, a copy of the new public notice shall be posted on the mortgaged property or on such other real property of which the mortgaged property is a part, and it shall be mailed or delivered to the mortgagor, to the borrower, and to any other person entitled to receive notice under section 667-G.

(c) The default under the mortgage agreement may be cured no later than three business days before the date of the public sale of the mortgaged property by paying the entire amount which would be owed to the foreclosing mortgagee if the payments under the mortgage agreement had not been accelerated, plus the foreclosing mortgagee’s attorney’s fees and costs, and all other fees and costs incurred by the foreclosing mortgagee related to the default, unless otherwise agreed to between the foreclosing mortgagee and the borrower. There is no right to cure the default or any right of redemption after that time. If the default is so cured, the public sale shall be canceled.

**§667-I Authorized bidder; successful bidder.** Any person, including the foreclosing mortgagee, shall be authorized to bid for the mortgaged property at the public sale and to purchase the mortgaged property. The highest bidder who meets the requirements of the terms and conditions of the public sale shall be the successful bidder. The public sale shall be considered as being held when the mortgaged

property is declared by the foreclosing mortgagee as being sold to the successful bidder. When the public sale is held, the successful bidder at the public sale, as the purchaser, shall make a nonrefundable downpayment to the foreclosing mortgagee of not less than ten per cent of the highest successful bid price. If the successful bidder is the foreclosing mortgagee or any other mortgagee having a recorded lien on the mortgaged property before the recordation of the notice of default under section 667-C, the downpayment requirement may be satisfied by offset and a credit bid up to the amount of the mortgage debt.

**§667-J Successful bidder's failure to comply; forfeiture of downpayment.** If the successful bidder later fails to comply with the terms and conditions of the public sale or fails to complete the purchase within forty-five days after the public sale is held, the downpayment shall be forfeited by that bidder. The forfeited downpayment shall be credited by the foreclosing mortgagee first towards the foreclosing mortgagee's attorney's fees and costs, then towards the fees and costs of the power of sale foreclosure, and any balance towards the moneys owed to the foreclosing mortgagee. The foreclosing mortgagee, in its discretion, may then accept the bid of the next highest bidder who meets the requirements of the terms and conditions of the public sale or may begin the public sale process again.

**§667-K Conveyance of property on payment of purchase price; distribution of sale proceeds.** (a) After the purchaser completes the purchase by paying the full purchase price and the costs for the purchase, the mortgaged property shall be conveyed to the purchaser by a conveyance document. The conveyance document shall be in a recordable form and shall be signed by the foreclosing mortgagee in the foreclosing mortgagee's name. The mortgagor or borrower shall sign the conveyance document on his or her own behalf.

(b) From the sale proceeds, after paying all liens and encumbrances in the order of priority as a matter of law, the foreclosing mortgagee's attorney's fees and costs, after paying the fees and costs of the power of sale foreclosure, and after paying the moneys owed to the foreclosing mortgagee, the balance of the sale proceeds shall be distributed by the foreclosing mortgagee to junior creditors having valid liens on the mortgaged property in the order of their priority and not pro rata. Any remaining surplus after payment in full of all valid lien creditors shall be distributed to the mortgagor.

(c) Lien creditors prior to the foreclosing mortgagee shall not be forced to their right of recovery. However, the foreclosing mortgagee and any prior lien creditor may agree in writing that the proceeds from the sale will be distributed by the foreclosing mortgagee to the prior lien creditor towards the payment of moneys owed to the prior lien creditor before any moneys are paid to the foreclosing mortgagee.

**§667-L Affidavit after public sale; contents.** (a) After the public sale is held, the foreclosing mortgagee shall sign an affidavit under penalty of perjury:

- (1) Stating that the power of sale foreclosure was made pursuant to the power of sale provision in the mortgage;
- (2) Stating that the power of sale foreclosure was conducted as required by this part;
- (3) Summarizing what was done by the foreclosing mortgagee;
- (4) Attaching a copy of the recorded notice of default; and
- (5) Attaching a copy of the last public notice of the public sale.

(b) The recitals in the affidavit required under subsection (a) may, but need not, be substantially in the following form:

- “(1) I am duly authorized to represent or act on behalf of (name of mortgagee) (“foreclosing mortgagee”) regarding the following power of sale foreclosure. I am signing this affidavit in accordance with the alternate power of sale foreclosure law (Chapter 667, Part , Hawaii Revised Statutes);
- (2) The foreclosing mortgagee is a “foreclosing mortgagee” as defined in the power of sale foreclosure law;
- (3) The power of sale foreclosure is of a mortgage made by (name of mortgagor) (“mortgagor”), dated , and recorded in the (bureau of conveyances or office of the assistant registrar of the land court) as (recordation information). The mortgaged property is located at: (address or description of location) and is identified by tax map key number: . The legal description of the mortgaged property is attached as Exhibit “A”. The name of the borrower, if different from the mortgagor, is (“borrower”);
- (4) Pursuant to the power of sale provision of the mortgage, the power of sale foreclosure was conducted as required by the power of sale foreclosure law. The following is a summary of what was done:
- (A) A notice of default was served on the mortgagor, the borrower, and the following person: . The notice of default was served on the following date and in the following manner: ;
- (B) The date of the notice of default was (date). The deadline in the notice for curing the default was (date), which deadline date was at least sixty days after the date of the notice;
- (C) The notice of default was recorded before the deadline date in the (bureau of conveyances or office of the assistant registrar of the land court). The notice was recorded on (date) as document no. . A copy of the recorded notice is attached as Exhibit “1”;
- (D) The default was not cured by the deadline date in the notice of default;
- (E) A public notice of the public sale was initially published in the classified section of the , a daily newspaper of general circulation in the county where the mortgaged property is located, once each week for three consecutive weeks on the following dates: . A copy of the affidavit of publication for the last public notice of the public sale is attached as Exhibit “2”. The date of the public sale was (date). The last publication was not less than fourteen days before the date of the public sale;
- (F) The public notice of the public sale was sent to the mortgagor, to the borrower, to the state director of taxation, to the director of finance of the county where the mortgaged property is located, and to the following: . The public notice was sent on the following dates and in the following manner: . Those dates were after the deadline date in the notice of default, and those dates were at least sixty days before the date of the public sale;
- (G) The public notice of the public sale was posted on the mortgaged property or on such other real property of which the mortgaged



- property is a part on \_\_\_\_\_ (date). That date was at least sixty days before the date of the public sale;
- (H) Two public showings (open houses) of the mortgaged property were held (or were not held because the mortgagor did not cooperate);
- (I) A public sale of the mortgaged property was held on a business day during business hours on: \_\_\_\_\_ (date), at \_\_\_\_\_ (time), at the following location:  
The highest successful bidder was \_\_\_\_\_ (name) with the highest successful bid price of \$ \_\_\_\_\_; and
- (J) At the time the public sale was held, the default was not cured and there was no circuit court foreclosure action pending in the circuit where the mortgaged property is located;
- and
- (5)<sup>1</sup> This affidavit is signed under penalty of perjury.”

**§667-M Recordation of affidavit, conveyance document; effect.** (a) The affidavit required under section 667-L and the conveyance document shall be recorded at any time after the public sale is held but not later than forty-five days after the public sale is held. The affidavit and the conveyance document may be recorded separately and on different days. After the recordation, the foreclosing mortgagee shall mail or deliver a recorded copy to those persons entitled to receive the public notice of the public sale under section 667-G(c).

(b) When both the affidavit and the conveyance document are recorded:

- (1) The sale of the mortgaged property is considered completed;
- (2) All persons claiming by, through, or under the mortgagor and all other persons having liens on the mortgaged property junior to the lien of the foreclosing mortgagee shall be forever barred of and from any and all right, title, interest, and claims at law or in equity in and to the mortgaged property and every part of the mortgaged property, except as otherwise provided by law;
- (3) The lien of the foreclosing mortgagee and all liens junior in priority to the lien of a foreclosing mortgagee shall be automatically extinguished from the mortgaged property; and
- (4) The purchaser shall be entitled to immediate and exclusive possession of the mortgaged property.

(c) The mortgagor and any person claiming by, through, or under the mortgagor and who is remaining in possession of the mortgaged property after the recordation of the affidavit and the conveyance document shall be considered a tenant at sufferance subject to eviction or ejectment. The purchaser may bring an action in the nature of summary possession under chapter 666, ejectment, or trespass or may bring any other appropriate action in a court where the mortgaged property is located to obtain a writ of possession, a writ of assistance, or any other relief. In any such action, the court shall award the prevailing party its reasonable attorney's fees and costs and all other reasonable fees and costs, all of which are to be paid for by the non-prevailing party.

**§667-N Foreclosure sale; conclusive presumptions.** Unless an appeal is taken as set forth in section 667-O, any foreclosure sale held in accordance with this part shall be conclusively presumed to have been conducted in a legal, fair, and reasonable manner. The sale price shall be conclusively presumed to be reasonable and equal to the fair market value of the property based on the circumstances and on the economic conditions at the time of the sale. The statements in the recorded affidavit shall be conclusive evidence as to the facts stated therein for any purpose,

in any court and in any proceeding, and in favor of bona fide purchasers and encumbrancers for value without notice. The purchaser of the mortgaged property shall be conclusively presumed to be a bona fide purchaser. Encumbrancers for value include liens placed by lenders who provide the purchaser with purchase money in exchange for a mortgage or other security interest in the newly-conveyed property.

**§667-O Appeal to circuit court.** The borrower, the mortgagor, and any creditor having a recorded lien on the mortgaged property before the recordation of the notice of default under section 667-C, shall have the right to file an appeal in the circuit court where the mortgaged property is located to contest the presumptions set forth in section 667-N, and the statements contained in the affidavit required by section 667-L. No appeal shall be filed later than thirty days after the recordation of the affidavit. Failure to timely appeal shall result in the statements in the affidavit and the presumptions set forth in section 667-N becoming conclusive in accordance with the terms of that section.

**§667-P Sale of property separately.** If the mortgaged property consists of more than one real property, each property may be sold separately to satisfy the mortgage debt.

**§667-Q Judicial action of foreclosure before public sale.** This part shall not prohibit the borrower, the foreclosing mortgagee, or any other creditor having a recorded lien on the mortgaged property before the recordation of the notice of default under section 667-C, from filing an action for the judicial foreclosure of the mortgaged property in the circuit court of the circuit where the mortgaged property is located; provided that the action is filed before the public sale is held. While that circuit court foreclosure action is pending, the power of sale foreclosure process shall be stayed.

**§667-R Recordation; full satisfaction of debt by borrower.** The recordation of both the conveyance document and the affidavit shall operate as full satisfaction of the debt owed by the borrower to the foreclosing mortgagee even if the foreclosing mortgagee receives nothing from the sale proceeds, unless the debt is secured by other collateral, or except as otherwise provided by law. The debts of other lien creditors are unaffected except as provided in this part.

**§667-S Right to enforce this part.** The foreclosing mortgagee, any other creditor having a recorded lien on the mortgaged property before the recordation of the notice of default under section 667-C, the borrower, and the mortgagor, may enforce this part by bringing an action in the circuit court of the circuit where the mortgaged property is located.

**§667-T Use of power of sale foreclosure in certain non-mortgage situations.** A power of sale foreclosure under this part may be used in certain non-mortgage situations where a law or a written document contains, authorizes, permits, or provides for a power of sale, a power of sale foreclosure, a power of sale remedy, or a nonjudicial foreclosure. These laws or written documents are limited to those involving time share plans, condominium property regimes, and agreements of sale.

**§667-U Public information requirement.** All financial institutions, mortgagees, lenders, business entities and organizations without limitation, and persons, who intend to use the power of sale foreclosure under this part, under the conditions required by this part, shall also develop informational materials to educate and

inform borrowers and mortgagors. These materials shall be made available to the public, including the borrowers at the time of application for a mortgage or loan, or other contract containing a power of sale foreclosure provision. These materials, among other things, shall inform the borrower that the financial institution and other business entities and persons who are authorized under this part to exercise the power of sale foreclosure, in the event of the borrower's default, have the option of pursuing either a judicial or nonjudicial foreclosure as provided by law. These informational materials shall fully and completely explain these remedies.

**§667-V Application of this part.** The requirements of this part shall apply only to new mortgages, loans, agreements, and contracts containing power of sale foreclosure language executed by the borrowers or mortgagors after July 1, 1999.”

SECTION 2. Chapter 667, Hawaii Revised Statutes, is amended by designating sections 667-1 to 667-10 as part I, entitled:

**“FORECLOSURE BY ACTION OR FORECLOSURE BY POWER OF SALE”.**

SECTION 3. Section 501-118, Hawaii Revised Statutes, is amended to read as follows:

**“§501-118 Foreclosure.** Mortgages of registered land may be foreclosed like mortgages of unregistered land.

In case of foreclosure by action, a certified copy of the final judgment of the court confirming the sale may be filed or recorded with the assistant registrar or the deputy after the time for appealing therefrom has expired and the purchaser shall thereupon be entitled to the entry of a new certificate.

In case of foreclosure by exercising the power of sale without a previous judgment, the affidavit required by [section 667-5] chapter 667 shall be [filed or] recorded [and registered] with the assistant registrar. The purchaser or the purchaser's assigns at the foreclosure sale may thereupon at any time present the deed under the power of sale to the assistant registrar for [filing or] recording [and registration,] and obtain a new certificate. Nothing in this chapter shall be construed to prevent the mortgagor or other person in interest from directly impeaching by action or otherwise, any foreclosure proceedings affecting registered land, prior to the entry of a new certificate of title.

After a new certificate of title has been entered, no judgment recovered on the mortgage note for any balance due thereon shall operate to open the foreclosure or affect the title to registered land.”

SECTION 4. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this part are severable.

SECTION 5. This Act does not affect rights and duties which matured, penalties which were incurred, and proceedings that were begun before its effective date.

SECTION 6. In codifying the new sections added by section 1, and referred to in section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

## ACT 123

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved June 22, 1998.)

### Note

1. Paragraph (5) redesignated.

## ACT 123

H.B. NO. 2524

A Bill for an Act Relating to Contests for Cause.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-174.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In cases involving general, special general, special, or runoff elections the complaint shall be heard by the supreme court in which the complaint was filed as soon as it reasonably may be heard. On the return day, the court, upon its motion or otherwise, may direct summons to be issued to any person who may be interested in the result of the proceedings.

At the hearing, the court shall cause the evidence to be reduced to writing and shall give judgment, stating all findings of fact and of law. The judgment may invalidate the general, special general, special, or runoff election on the grounds that a correct result cannot be ascertained because of a mistake or fraud on the part of the precinct officials; or decide that a certain candidate, or certain candidates, received a majority or plurality of votes cast and were elected. If the judgment should be that the general, special general, special, or runoff election was invalid, a certified copy thereof shall be filed with the governor, and the governor shall duly call a new election to be held not later than [on the sixtieth day] one hundred twenty days after the judgment is filed. If the court shall decide which candidate or candidates have been elected, a copy of that judgment shall be served on the chief election officer or county clerk, who shall sign and deliver to the candidate or candidates certificates of election, and the same shall be conclusive of the right of the candidate or candidates to the offices.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 22, 1998.)

## ACT 124

H.B. NO. 2613

A Bill for an Act Relating to the Board of Supervisors.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 46-72, Hawaii Revised Statutes, is amended to read as follows:

“**§46-72 Liability for damages; notice of injuries.** Before the county shall be liable for damages to any person for injuries to person or property received upon any of the streets, avenues, alleys, sidewalks, or other public places of the county, or on account of any negligence of any official or employee of the county, the person so injured, or the owner or person entitled to the possession, occupation, or use of the property so injured, or someone in [his] the person’s behalf, shall, within six months after the injuries are received, give the [chairman] chairperson of the [board of supervisors] council of the county or the city clerk of Honolulu notice in writing of the injuries and the specific damages resulting, stating fully in the notice when, where, and how the injuries occurred, the extent thereof, and the amount claimed therefor.”

SECTION 2. Section 54-52, Hawaii Revised Statutes, is amended to read as follows:

“**§54-52 Appointment.** The eight appointive members of the board of water supply shall be appointed by the chairperson of the [board of supervisors] council of the county, with the approval of the [board of supervisors.] council. The chairperson shall likewise designate the chairperson of the board of water supply from among the appointive members. The members of the board shall serve without pay, but shall be reimbursed for their reasonable expenses. Each member of the board [must] shall be, at the time of the member’s appointment, an elector of the county of Hawaii and [must] shall have been such for at least three years next preceding the member’s appointment. Any member of the board may be removed from office by the chairperson of the [board of supervisors,] council of the county, with the approval of the [board of supervisors.] council.

Membership of the board shall include four members who are residents of the district of North or South Hilo; one of the four members shall be the person who for the time being shall be the legal incumbent of the office of the chief engineer of the department of public works of the county. In addition, one member shall be a resident of the district of North Kona or South Kona, one member shall be a resident of the district of North Kohala or South Kohala, one member shall be a resident of the district of Hamakua, one member shall be a resident of the district of Puna, and one member shall be a resident of the district of Kau.

The term of office of the appointive members of the board shall be five years from and after the date of their respective appointments. Any vacancy occurring on the board shall be filled by appointment. The one appointed to fill the vacancy shall serve only for the unexpired term of the person whom the appointive member succeeds. Officers and employees of the county of Hawaii shall not be eligible for appointive membership on the board.”

SECTION 3. Section 54-54, Hawaii Revised Statutes, is amended to read as follows:

“§54-54 **General management.** The board of water supply shall, with the advice and consent of the [board of supervisors] council of the county, appoint a manager who shall have [such] qualifications [as] that the board deems necessary, and who shall have full power to administer the affairs of the waterworks and the water systems [which] that are by this part placed under the control of the board. The manager shall be known as the manager of the board of water supply of the county of Hawaii, shall serve at the pleasure of the board, and shall be subject to the direction of the board.

The manager shall be subject to chapter 77.

The manager shall appoint [such] subordinates, assistants, and employees [as] that may be necessary for the proper conduct of the business of the board and the subordinates, assistants, and employees shall be subject to chapters 76 and 77.

The board may require a bond in [such] an amount [as] that it deems proper from any employee, which bond shall be duly conditioned for the faithful performance of the duties of the employee, and the board may provide that the premium on any bond be paid out of the revenues of the waterworks and water systems under the jurisdiction of the board.

The manager at [such] a time [as] that may be prescribed by the board, shall present to the board full annual reports of the principal transactions of the water supply system during the last completed year; which reports together with [such] any recommendations [as] that the board may think proper, shall be presented to the chairperson and executive officer of the [board of supervisors] council of the county and the [board of supervisors.] council.”

SECTION 4. Section 54-59, Hawaii Revised Statutes, is amended to read as follows:

“§54-59 **Audits.** The auditor of the county shall make an annual audit of the accounts and financial status of the board of water supply and shall file a copy of the audit report with the [board of supervisors.] council of the county. The board may, whenever necessary in connection with the issuance of any bonds, employ a certified public accountant to make audits.”

SECTION 5. Section 54-61, Hawaii Revised Statutes, is amended to read as follows:

“§54-61 **Bond sales.** The sale of bonds for purposes of the board of water supply shall be subject to the approval of the [board of supervisors] council of the county; when approved by the [board of supervisors.] council, the treasurer of the county shall sell [such] any bonds [as] that are authorized for the acquisition, construction, replacement, extension, or completion of any of the waterworks and water systems under the jurisdiction of the board of water supply; provided that [such] the sales shall otherwise be conducted in accordance with the procedure specified by law for the sale of [such] the bonds. The proceeds from the sales shall be kept by the county treasurer in a special fund to be used only for the purpose or purposes for which the bonds are sold.”

SECTION 6. Section 54-64, Hawaii Revised Statutes, is amended to read as follows:

“§54-64 **Acquisition of lands.** The board of water supply may, in the name of the county, subject to the approval of the [board of supervisors,] council of the county, acquire and take by purchase, lease, or otherwise, all property situated within the limits of the county that it may determine necessary for the construction,

maintenance, extension, or operation of any of the waterworks and water systems under its jurisdiction and control.”

SECTION 7. Section 88-182, Hawaii Revised Statutes, is amended to read as follows:

“**§88-182 Members: appointment, terms, removals.** Except in the counties of Hawaii and Maui, each pension board shall consist of five members to be appointed for terms of five years. The original members shall be appointed for staggered terms so that one shall expire on June 30 of each year. All vacancies occurring otherwise than by expiration of the term shall be filled by appointment for the remainder of the unexpired term. One of the members shall be named by the appointing power as [chairman.] chairperson. The members shall be appointed by the mayor, or [chairman] chairperson of the [board of supervisors,] council of the county, as the case may be, with the approval of the [board of supervisors or] council, and the members may be removed by the appointing power with the approval of the following number of other members of the [board of supervisors or] council: in the city and county of Honolulu, five; in the county of Kauai, three.

The pension board for the county of Maui and the county of Hawaii shall consist of the [chairman] chairperson of the [board of supervisors,] council of the county, the county auditor, and the county treasurer.”

SECTION 8. Section 88-185, Hawaii Revised Statutes, is amended to read as follows:

“**§88-185 Assistants; county clerk, attorney, and treasurer.** The county clerk shall [ex officio] be the ex officio secretary of the pension board of [his] the clerk’s county and shall keep in a separate book a true and correct account of the proceedings of the board. The county attorney shall be the legal advisor of the board of [his] the attorney’s county; provided that the board, with the approval of the [board of supervisors,] council of the county, may employ private legal counsel. The county treasurer shall [ex officio] be the ex officio treasurer of the board of [his] the treasurer’s county. The county auditor shall audit all accounts of the pension fund of [such] the county and the county auditor shall draw all warrants payable therefrom, which warrants shall be drawn only upon a voucher certified by the [chairman,] chairperson, or acting [chairman,] chairperson, and one other member of the board. The county treasurer shall collect all moneys belonging to the fund, have the custody of all its notes, bonds, and other securities, if any, and collect the principal and interest of the same, and [he] the treasurer shall be liable on [his] the treasurer’s bond as treasurer for the faithful accounting of all moneys [which] that may come into [his] the treasurer’s hands belonging to the pension fund. The treasurer shall, upon the expiration of [his] the treasurer’s term of office, account to the board for all moneys, notes, bonds, and other securities coming into [his] the treasurer’s hands and the proceeds of the same, and turn over to [his] the treasurer’s successor all moneys, notes, and other securities remaining in [his] the treasurer’s hands and belonging to the pension fund.”

SECTION 9. Section 105-7, Hawaii Revised Statutes, is amended to read as follows:

“**§105-7 Inscription on county motor vehicles.** Unless excepted every motor vehicle owned or controlled by any county shall bear on both sides thereof the following inscription: “For Official Use Only.” Underneath the inscription shall be the name or title of the county and the name of the department, commission, board,

## ACT 125

bureau, officer, agency, or instrumentality thereof controlling or possessing [such] the motor vehicle; except that every motor vehicle owned or controlled by the board of water supply of the city and county of Honolulu shall bear on both sides thereof the following inscription: "Board of Water Supply - Conserve Water." This section shall not apply to [such] motor vehicles [as] that are furnished to the mayor of the city and county of Honolulu or to the chairperson and executive officer of the [board of supervisors] council of any county, or to the chief of police and deputy chief of police of the city and county and counties or manager of the board of water supply of the city and county of Honolulu."

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval.

(Approved June 22, 1998.)

## ACT 125

H.B. NO. 2660

A Bill for an Act Relating to the Public Service Company Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 239-2, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "carrier" to read:

""Carrier" means a person who engages in transportation, and does not include a person such as freight forwarder or tour packager who provides transportation by contracting with others, except to the extent that such person oneself engages in transportation."

2. By amending the definition of "gross income" to read:

""Gross income" means the gross income from public service company business as follows:

- (A) Gross income from the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil;
- (B) Gross income from the transportation of passengers or freight, or the conveyance or transmission of telephone or telegraph messages, or the furnishing of facilities for the transmission of intelligence by electricity, by land or water or air:
  - (i) Originating and terminating within this State;
  - (ii) By means of vessels or aircraft having their home port in the State and operating between ports or airports in the State, with respect to the transportation so effected; or
  - (iii) By means of plant or equipment located in the State, between points in the State; or
- (C) Gross income from the transportation of freight by motor carriers (other than as stated in subparagraph (B)), or the conveyance or transmission of messages or intelligence through wires or cables located or partly located in the State (other than as stated in subparagraph (B)).

The words "gross income" and "gross income from public service company business" shall not be construed to include dividends (as defined by chapter 235) paid by one member of an affiliated public service company group to another member of the same group; or gross income from the sale or



transfer of materials or supplies, interest on loans, or the provision of engineering, construction, maintenance, or managerial services by one member of an affiliated public service company group to another member of the same group. "Affiliated public service company group" means an affiliated group of domestic corporations within the meaning of chapter 235, all of the members of which are public service companies. "Member of an affiliated public service company group" means a corporation (including the parent corporation) which is included within an affiliated public service company group.

Where the transportation of passengers or property is furnished through arrangements between motor carriers, and the gross income is divided between the motor carriers, any tax imposed by this chapter shall apply to each motor carrier with respect to each motor carriers' respective portion of the proceeds.

Where tourism related services are furnished through arrangements made by a travel agency or tour packager and the gross income is divided between the provider of the services on the one hand and the travel agency or tour packager on the other hand, any tax imposed by this chapter shall apply to each [such] person with respect to [such] each person's respective portion of the proceeds[, and no more].

Accounts found to be worthless and actually charged off for income tax purposes, at corresponding periods, may be deducted from gross income as specified under this chapter so far as they reflect taxable sales, but shall be added to gross income when and if subsequently collected.

As used in this paragraph "tourism related services" means motor carriers of passengers regulated by the public utilities commission."

3. By amending the definition of "motor carrier" to read:

""Motor carrier" means a common carrier or contract carrier transporting [freight or other property] persons or property for compensation on the public highways, other than a public utility or taxicab."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 22, 1998.)

## ACT 126

H.B. NO. 2710

A Bill for an Act Relating to the Judiciary.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act shall be known and may be cited as the Judiciary Supplemental Appropriations Act of 1998.

SECTION 2. This Act amends Act 155, Session Laws of Hawaii 1997.

SECTION 3. Part II, Act 155, Session Laws of Hawaii 1997, is amended to read as follows:

"SECTION 3. The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are appropriated or

authorized from the sources of funding specified to the judiciary for the fiscal biennium beginning July 1, 1997, and ending June 30, 1999. The total expenditures and the number of permanent positions established in each fiscal year of the fiscal biennium shall not exceed the sums and the position ceilings indicated for each year, except as provided in this Act.

PROGRAM APPROPRIATIONS

ITEM NO.	PROG. ID	PROGRAM	EXPENDING AGENCY	APPROPRIATIONS			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
<b>The Judicial System</b>							
1.	JUD101	COURTS OF APPEAL					
	OPERATING		JUD	75.00*		75.00*	
			JUD	4,549,199A		[4,466,346A]	
			JUD			4,418,353A	
			JUD	75,000W		75,000W	
2.	JUD111	CIRCUIT COURTS					
	OPERATING		JUD	481.50*		485.50*	
			JUD	25,715,448A		[25,681,171A]	
			JUD			25,327,704A	
3.	JUD112	FAMILY COURTS					
	OPERATING		JUD	409.00*		409.00*	
			JUD	25,659,213A		[25,368,747A]	
			JUD			25,245,595A	
			JUD	100,000B		[100,000B]	
			JUD			232,500B	
4.	JUD121	DISTRICT COURTS					
	OPERATING		JUD	491.50*		491.50*	
			JUD	17,001,151A		[16,906,930A]	
			JUD			16,944,394A	
			JUD	35.00*		35.00*	
			JUD	1,536,735B		1,536,735B	
5.	JUD201	ADMIN. DIRECTOR SERVICES					
	OPERATING		JUD	223.00*		[223.00*]	
			JUD			226.00*	
			JUD	14,566,218A		[14,586,705A]	
			JUD			14,603,664A	
			JUD	800,000B		[800,000B]	
			JUD			1,200,000B	
	INVESTMENT CAPITAL		JUD	10,590,000C		[8,900,000C]	
			JUD			11,945,000C	

SECTION 4. Part III, Act 155, Session Laws of Hawaii 1997, is amended:

(1) By amending section 5 to read as follows:

“SECTION 5. Provided that of the general fund appropriation for family court (JUD 112), the sum of \$318,750 for the fiscal year 1997-1998 and the sum of \$318,750 for the fiscal year 1998-1999 shall be used for purchases of service to obtain services for the operation of a domestic violence drop-in center.”

(2) By repealing section 6.

(3) By amending section 7 to read as follows:

“SECTION 7. Provided that of the general fund appropriation for family court (JUD 112), the sum of \$5,115,430 for fiscal year 1997-1998 and the sum of

[\$5,115,430] \$5,434,180 for fiscal year 1998-1999 shall be used for purchases of services.”

SECTION 5. Part IV, Act 155, Session Laws of Hawaii 1997, is amended by amending section 13 to read as follows:

“SECTION 13. The sum of [\$19,490,000] \$22,535,000 appropriated or authorized in part II of this Act for capital improvements program projects shall be expended by the judiciary for the projects listed below; provided that several related or similar projects may be combined into a single project if a combination is advantageous or convenient for implementation; and provided further that the total cost of the projects thus combined shall not exceed the total of the sums specified for the projects separately. (The amount after each cost element and the total funding for each project listed in this part are in thousands of dollars.)

**CAPITAL IMPROVEMENT PROJECTS**

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F

**The Judicial System**

**JUD201 - ADMIN. DIRECTOR SERVICES**

1. HILO JUDICIARY COMPLEX, HAWAII

LAND ACQUISITION AND DESIGN FOR A JUDICIARY COMPLEX IN HILO, HAWAII.

LAND DESIGN		1		
TOTAL FUNDING	JUD	3,000		
		3,001C		C

[ 2. KAPUAIWA BUILDING RENOVATION, OAHU

DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE RENOVATION OF THE KAPUAIWA BUILDING, OAHU.

DESIGN		75		
CONSTRUCTION		700		
EQUIPMENT		10		
TOTAL FUNDING	JUD	785C		C]

2. KAPUAIWA BUILDING RENOVATION, OAHU

DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE RENOVATION OF THE KAPUAIWA BUILDING, OAHU.

DESIGN		75		
CONSTRUCTION		700		700
EQUIPMENT		10		10
TOTAL FUNDING	JUD	785C		710C

[ 3. HOAPILI HALE UPGRADE IMPROVEMENTS, MAUI

DESIGN, CONSTRUCTION AND EQUIPMENT FOR UPGRADE IMPROVEMENTS AT HOAPILI HALE, MAUI.

DESIGN		10		
CONSTRUCTION		1,200		

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		TOTAL FUNDING	JUD		1,210C		C]
3.		<u>HOAPILI HALE UPGRADE IMPROVEMENTS, MAUI</u>					
		<u>DESIGN, CONSTRUCTION, AND EQUIPMENT FOR UPGRADE IMPROVEMENTS AT HOAPILI HALE, MAUI.</u>					
		DESIGN			10		
		CONSTRUCTION			<u>1,200</u>		290
		EQUIPMENT					<u>10</u>
		TOTAL FUNDING	JUD		<u>1,210C</u>		<u>300C</u>
[ 4.		<u>ARCHITECTURAL BARRIER REMOVAL FOR JUDICIARY BUILDINGS, STATEWIDE</u>					
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR THE REMOVAL OF ARCHITECTURAL BARRIERS IN JUDICIARY BUILDINGS, STATEWIDE.					
		PLANS			1		
		DESIGN			1		
		CONSTRUCTION			747		
		EQUIPMENT			1		
		TOTAL FUNDING	JUD		750C		C]
4.		<u>ARCHITECTURAL BARRIER REMOVAL FOR JUDICIARY BUILDINGS, STATEWIDE</u>					
		<u>PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE REMOVAL OF ARCHITECTURAL BARRIERS IN JUDICIARY BUILDINGS, STATEWIDE.</u>					
		PLANS			1		1
		DESIGN			1		1
		CONSTRUCTION			747		372
		EQUIPMENT			1		1
		TOTAL FUNDING	JUD		<u>750C</u>		<u>375C</u>
[ 5.		<u>REMODELING AND UPGRADING JUDICIARY BUILDINGS, STATEWIDE</u>					
		DESIGN, CONSTRUCTION AND EQUIPMENT FOR REMODELING AND UPGRADING JUDICIARY BUILDINGS, STATEWIDE.					
		PLANS			10		
		DESIGN			15		
		CONSTRUCTION			210		
		EQUIPMENT			15		
		TOTAL FUNDING	JUD		250C		C]
5.		<u>REMODELING AND UPGRADING JUDICIARY BUILDINGS, STATEWIDE</u>					
		<u>PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR REMODELING AND UPGRADING JUDICIARY BUILDINGS, STATEWIDE.</u>					
		PLANS			10		
		DESIGN			15		
		CONSTRUCTION			210		
		EQUIPMENT			15		
		TOTAL FUNDING	JUD		<u>250C</u>		<u>C</u>

## CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
[ 6.		KOOLAUPOKO DISTRICT COURT FACILITY, OAHU					
		PLANS, DESIGN AND CONSTRUCTION FOR THE DEVELOPMENT OF A NEW KOOLAUPOKO DISTRICT COURT.					
		PLANS			1		
		DESIGN			589		
		CONSTRUCTION					8,900
		TOTAL FUNDING	JUD		590C		8,900C]
6.		<u>KOOLAUPOKO DISTRICT COURT FACILITY, OAHU</u>					
		<u>PLANS, LAND, DESIGN, AND CONSTRUCTION FOR THE DEVELOPMENT OF A NEW KOOLAUPOKO DISTRICT COURT.</u>					
		PLANS			1		
		LAND			1		
		DESIGN			588		
		CONSTRUCTION					8,900
		TOTAL FUNDING	JUD		590C		8,900C
[ 7.		ALI'IOLANI HALE ROOF AND STRUCTURAL IMPROVEMENTS, OAHU					
		PLANS, DESIGN AND CONSTRUCTION FOR ROOF AND STRUCTURAL IMPROVEMENTS AT ALI'IOLANI HALE, OAHU.					
		PLANS			1		
		DESIGN			1		
		CONSTRUCTION			606		
		TOTAL FUNDING	JUD		608C		C]
7.		<u>ALI'IOLANI HALE ROOF AND STRUCTURAL IMPROVEMENTS, OAHU</u>					
		<u>PLANS, DESIGN, AND CONSTRUCTION FOR ROOF AND STRUCTURAL IMPROVEMENTS AT ALI'IOLANI HALE, OAHU.</u>					
		PLANS			1		
		DESIGN			1		
		CONSTRUCTION			606		
		TOTAL FUNDING	JUD		608C		C
[ 8.		KAAHUMANU HALE ROOF IMPROVEMENTS, OAHU					
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR ROOF AND AIR CONDITIONING IMPROVEMENTS AT KAAHUMANU HALE, OAHU.					
		PLANS			1		
		DESIGN			1		
		CONSTRUCTION			497		
		EQUIPMENT			1		
		TOTAL FUNDING	JUD		500C		C]
8.		<u>KAAHUMANU HALE ROOF IMPROVEMENTS, OAHU</u>					
		<u>PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR ROOF AND AIR CONDITIONING IMPROVEMENTS AT KAAHUMANU HALE, OAHU.</u>					
		PLANS			1		
		DESIGN			1		
		CONSTRUCTION			497		

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		<u>EQUIPMENT</u>				1	
		<u>TOTAL FUNDING</u>	<u>JUD</u>			<u>500C</u>	<u>C</u>
[ 9. JUVENILE DETENTION CENTER FACILITIES IMPROVEMENTS, OAHU							
		PLANS, DESIGN, CONSTRUCTION AND EQUIPMENT FOR HO'OMALU HALE IMPROVEMENTS INCLUDING STRUCTURAL IMPROVEMENTS, SECURITY FENCING, AND PAINTING, OAHU.					
		PLANS				1	
		DESIGN				1	
		CONSTRUCTION				260	
		EQUIPMENT				1	
		<u>TOTAL FUNDING</u>	<u>JUD</u>			<u>263C</u>	<u>C]</u>
9. <u>JUVENILE DETENTION CENTER FACILITIES IMPROVEMENTS, OAHU</u>							
		<u>PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR HO'OMALU HALE IMPROVEMENTS INCLUDING STRUCTURAL IMPROVEMENTS, SECURITY FENCING, AND PAINTING, OAHU.</u>					
		PLANS				1	
		DESIGN				1	
		CONSTRUCTION				260	
		EQUIPMENT				1	
		<u>TOTAL FUNDING</u>	<u>JUD</u>			<u>263C</u>	<u>C</u>
[ 10. FAMILY COURT CENTER AND JUVENILE DETENTION FACILITY, KAPOLEI, OAHU							
		DESIGN FOR THE FAMILY COURT CENTER AND JUVENILE DETENTION FACILITY AT KAPOLEI, OAHU.					
		DESIGN				2,633	
		<u>TOTAL FUNDING</u>	<u>JUD</u>			<u>2,633C</u>	<u>C]</u>
10. <u>FAMILY COURT CENTER AND JUVENILE DETENTION FACILITY, KAPOLEI, OAHU</u>							
		<u>LAND ACQUISITION AND DESIGN FOR THE FAMILY COURT CENTER AND JUVENILE DETENTION FACILITY, AT KAPOLEI, OAHU.</u>					
		LAND				13	
		DESIGN				2,620	
		<u>TOTAL FUNDING</u>	<u>JUD</u>			<u>2,633C</u>	<u>C</u>
10A. <u>FUEL STORAGE TANK UPGRADE FOR JUDICIARY BUILDINGS, OAHU</u>							
		DESIGN, CONSTRUCTION, AND EQUIPMENT FOR FUEL STORAGE TANK UPGRADE FOR JUDICIARY BUILDINGS, OAHU.					
		DESIGN					1
		CONSTRUCTION					298
		EQUIPMENT					1
		<u>TOTAL FUNDING</u>	<u>JUD</u>			<u>C</u>	<u>300C</u>
10B. <u>KAUIKEAOULI HALE DECK COATING AND ROOF IMPROVEMENTS, OAHU</u>							

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL NO.	PROJECT TITLE	EXPENDING AGENCY	APPROPRIATIONS (IN 000's)			
				FISCAL YEAR 1997-98	M O F	FISCAL YEAR 1998-99	M O F
		<u>DESIGN, CONSTRUCTION, AND EQUIPMENT FOR KAUIKEAOULI HALE DECK COATING AND ROOF IMPROVEMENTS.</u>					
							1
							373
							1
		TOTAL FUNDING	JUD		C		375C
<u>10C. WAHIAWA JUDICIARY BUILDING AND PARKING STRUCTURE, OAHU</u>							
		<u>DESIGN FOR A JUDICIARY BUILDING AND PARKING STRUCTURE AT THE WAHIAWA STATE CIVIC CENTER, OAHU.</u>					
							685
		TOTAL FUNDING	JUD		C		685C
<u>10D. LEGAL AID SOCIETY OF HAWAII JUSTICE CENTER BUILDINGS, STATEWIDE</u>							
		<u>DESIGN, CONSTRUCTION, AND EQUIPMENT FOR THE ACQUISITION OF JUSTICE CENTER BUILDINGS, STATEWIDE. THIS PROJECT QUALIFIES AS A GRANT, PURSUANT TO CHAPTER 42D, HRS.</u>					
							100
							199
							1
		TOTAL FUNDING	JUD		C		300C

SECTION 6. Part V, Act 155, Session Laws of Hawaii 1997, is amended by amending section 14 to read as follows:

“SECTION 14. General obligation bonds may be issued, as provided by law, to yield the amount that may be necessary to finance projects authorized in part II and listed in part IV of this Act; provided that the sum total of the general obligation bonds so issued shall not exceed [\$19,490,000] \$22,535,000.”

SECTION 7. Act 155, Session Laws of Hawaii 1997, is amended by adding a new section to read as follows:

“SECTION 17A. Any law to the contrary notwithstanding the appropriation under Act 18 First Special Session Laws of Hawaii 1995, section 11, as amended and renumbered by Act 244 Session Laws of Hawaii 1996, section 6, in the amounts indicated or balances thereof, unallotted, allotted, encumbered and unrequired, are hereby lapsed:

<u>Item No.</u>	<u>Amount (MOF)</u>
JUD 201-1	9,000 C
JUD 201-2	4,000 C
JUD 201-3A	590,000 C”

SECTION 8. Act 155, Session Laws of Hawaii 1997, is amended by amending section 21 to read as follows:

## ACT 127

“SECTION 21. If the amount allocated from the general obligation bond fund for a capital improvements program project listed in part IV of this Act is insufficient, the chief justice may make supplemental allotments from the project adjustment fund; provided that supplemental allotments shall not be used to increase the scope of the project[.]; provided further that such supplemental allotments from the project adjustment fund shall not be used to increase the scope of the project; and provided further that the chief justice shall submit a report to the legislature no later than twenty days prior to the convening of the 1999 regular session.”

SECTION 9. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, the remainder of the Act and any provision thereof shall not be affected. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and shall be expended to fulfill the objective and intent of the appropriation to the extent possible.

SECTION 10. If any manifest clerical, typographical, or other mechanical error is found in this Act, the chief justice is authorized to correct the error. All changes made pursuant to this section shall be reported to the legislature at its next session.

SECTION 11. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 12. This Act shall take effect on July 1, 1998.

(Approved June 22, 1998.)

## ACT 127

H.B. NO. 3024

A Bill for an Act Relating to Public Assistance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§346- Financial assistance advisory council; established.** (a) There is created within the department for administrative purposes the financial assistance advisory council. The financial assistance advisory council shall be composed of fifteen members appointed by the director. The members of the financial assistance advisory council shall serve at the pleasure of the director and without compensation.

(b) The financial assistance advisory council shall have the function of rendering advice and information to the department on matters relating to financial assistance programs including rendering advice and information for the determination of the amount of benefit payments under sections 346-52, 346-53, and 346-71, including but not limited to temporary assistance to needy families (TANF), temporary assistance to other needy families (TANOF), and general assistance to households without minor dependents. The council shall be advisory and informational in nature only and shall not have the power to adopt rules.

(c) The financial assistance advisory council may request the assistance of professional facilitators and mediators as necessary.”



SECTION 2. Section 346-71, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) A person between eighteen and sixty-five years of age with a disability shall be eligible for general assistance to households without minor dependents if the person:

- (1) Is determined to be needy in accordance with standards established by this chapter and the rules adopted under subsection [(e)];
- (2) Is unable to meet the disability requirements established by the federal Supplemental Security Income Program or its successor agency; and
- (3) Is unable to engage in any substantial gainful employment because of a determined and certified physical or mental disability. Determination and certification of physical and mental disability shall be as follows:
  - (A) A determination and certification of physical disability shall only be made by a board of licensed physicians designated and paid [for] by the department[;]. Meetings of this board shall not be subject to part I of chapter 92;
  - (B) A determination and certification of mental disability shall be made by a board of licensed psychologists or licensed physicians whose specialty is in psychiatry. This board shall also be designated and paid by the department[;]. Meetings of this board shall not be subject to part I of chapter 92;
  - (C) If a determination of mental disability is made, the person shall accept and pursue appropriate medical treatment from a provider of the person’s choice;
  - (D) If a determination of physical disability is made, the person shall accept and pursue appropriate medical treatment from a provider of the person’s choice; and
  - (E) Any person, to continue to be certified as mentally or physically disabled, shall be reevaluated annually as provided by this section and more frequently as required by the department.

As used in this subsection:

“Substantial gainful employment” means at least [twenty] thirty hours of work per week.

“With a disability” or “having a disability” means a disability [which] that extends for a period of over sixty days.

Any person determined to be eligible under this subsection may be referred to any appropriate state agency for vocational rehabilitation services and shall be required to accept the services as a further condition of eligibility for the receipt of general assistance to households without minor dependents under this section. An assistance unit shall be determined ineligible for general assistance to households without minor dependents if any adult member of the assistance unit fails to cooperate with any appropriate state agency for vocational rehabilitation services after being referred for services. Any person found eligible under this subsection may also be required to seek employment, and participate in public work projects as described in section 346-31, and in public employment projects as described in section 346-102.

[The general assistance advisory council established in section 346-75 shall offer advice and information to the department as appropriate.]”

SECTION 3. Section 346-75, Hawaii Revised Statutes, is repealed.

**ACT 128**

SECTION 4. Act 300, Session Laws of Hawaii 1996, as amended by Act 200, Session Laws of Hawaii 1997, is amended by amending section 6 to read as follows:

“SECTION 6. This Act shall take effect upon its approval[, and shall be repealed on June 30, 1998; provided that sections 346-29(b) and 346-53(a), Hawaii Revised Statutes, shall be reenacted in the form in which they read on July 2, 1996].”

SECTION 5. Act 200, Session Laws of Hawaii 1997, is amended by amending section 11 to read as follows:

“SECTION 11. This Act shall take effect on July 1, 1997[, and except for section 7, shall be repealed on June 30, 1998; provided that:

- (1) The definition of “exempt household” in section 346-1, Hawaii Revised Statutes;
- (2) The title to part III, chapter 346, Hawaii Revised Statutes; and
- (3) Section 346-10, Hawaii Revised Statutes;

shall be reenacted in the form in which they read on the day before the approval of this Act; and provided further that sections 346-29 and 346-53 shall be reenacted in the form in which they read on July 2, 1996].”

SECTION 6. If any provisions of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect on June 29, 1998.

(Approved June 22, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 128**

S.B. NO. 721

A Bill for an Act Relating to the Judiciary.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 607-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) The fees referred to in subsection (a) are:
- (1) For the institution of each action or proceeding, to include all charges except as provided by paragraphs (2) to (6) ..... [~~\$25~~] \$75
  - (2) Intervention; answer containing one or more cross-claims or counterclaims; third-party complaint, for each such matter ..... \$10
  - (3) Demand for jury trial ..... Fee prescribed by section 607-5
  - (4) Filing of notice of appeal to the supreme court, to be paid in addition to the deposit of appellate court costs ..... [~~\$30~~] \$100

- (5) Making of a copy; comparing of copy with original .... Fees prescribed by section 92-21
- (6) Posting notice; service fees; garnishee fees; mileage charges; or other services actually performed ..... Amounts necessary to cover actual costs or disbursements.’’

SECTION 2. Section 607-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) **PART I**

Action or proceeding, general:

- (1) Civil action or special proceeding, unless another item in this part I applies ..... [\$100] \$200
- (2) Appeal to a circuit court ..... [\$30] \$100
- (3) Transfer of action to circuit court from district court, in addition to district court fees ..... [\$20] \$125

Trusts:

- (4) Proceeding for (A) appointment of trustee; (B) appointment of successor; (C) resignation of trustee; (D) instructions; (E) approval of investment; (F) approval of sale, mortgage, lease, or other disposition of property; (G) approval of compromise of claim, for each such matter ..... [\$15] \$100
- (5) Proceeding for (A) removal of trustee; (B) order requiring accounting; (C) invalidation of action taken by trustee; (D) termination of trust, for each such matter ..... [\$15] \$100
- (6) Accounting, this fee to be paid for each account filed and to include the settlement of the account ..... \$10
- (7) Vesting order ..... no charge under part I
- (8) Allowance of fees of trustees, attorneys, or other fees for services incurred in a proceeding for which a fee has been paid under this section ..... no charge under part I
- (8a) Registration of a trust, or release of registration, under chapter 560 .. \$3
- (9) Any other proceeding relating to a trust ..... \$15

Guardianship of estate or conservatorship:

- (10) Proceeding for (A) appointment; (B) appointment of successor; (C) resignation; (D) instructions, unless included in one of the foregoing proceedings; (E), (F), (G) approval of any matter listed in (E), (F), or (G) of item (4) in relation to a trust, for each such matter .... [\$15] \$100
- (11) Proceeding of the nature listed in (A), (B), (C), or (D) of item (5) in relation to a trust, for each such matter ..... \$15
- (12) Accounting, same as provided by item (6) in relation to a trust ..... \$10
- (13) Any other proceeding relating to guardianship of an estate, or a conservatorship ..... no charge under part I

Probate (decedents’ estates). These fees include all matters of the nature listed in items (4) to (9), without additional charge:

- (14) Application for appointment of special administrator by order of the court, in addition to fee prescribed by item (15) ..... \$10
- (15) Probate, administration, or ancillary administration, this fee to be paid once only for each decedent’s estate ..... [\$30] \$100
- (15a) Informal probate or appointment proceeding under chapter 560, this fee to be paid instead of the fee prescribed by item (15) ..... [\$10] \$100
- (15b) Application under chapter 560 for formal testacy proceedings, or for supervised administration, this fee to be paid once only for each decedent’s estate as an addition to the fee prescribed by item (15a) ... \$20

Family court cases:

- (16) Matrimonial action (annulment, divorce, separation, or separate maintenance) ..... [30] \$100
- (17) Adoption ..... [15] \$100
- (18) Guardianship of the person, including all matters of the nature listed in items (4) to (9) ..... [15] \$100
- (19) Termination of parental rights ..... no charge under part I
- (20) Any other family court proceeding, except motions or other pleadings in matrimonial, adoption, and guardianship actions, but including without limitation custody proceedings even if in the form of an habeas corpus proceeding ..... \$15''

SECTION 3. Section 607-5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) **PART II**

The fees prescribed by this part apply without exception.

Jury trial:

- (21) Demand for jury trial, including without limitation probate cases, appeals to the circuit court, and cases transferred to the circuit court from the district court, this fee to be paid to the court in which the demand is filed by the party first making the demand ..... [100] \$200
- (22) Remand to district court in cases transferred to circuit court from district court on demand for jury trial, where jury trial is waived and a remand of such cases to district court is allowed ..... \$50

Miscellaneous:

- (23) Filing of notice of appeal to supreme court, to be paid in addition to the deposit of supreme court costs ..... [30] \$100
- (24) Search of records by the clerk ..... \$2
- (25) Making of copy; comparing of copy with original; certification or authentication of notaries ..... Fees prescribed by section 92-21
- (26) Certification under seal of copy of pleading or other paper subsequent to the initial filing of the pleading or paper, except record on appeal . \$1
- (27) Exemplification, instead of item (26) ..... \$2
- (28) Filing of copy of notice of completion of contract, with affidavit of publication ..... \$3
- (29) Filing of initial paper under section 507-43 by person asserting mechanic’s or materialman’s lien (this fee to be additional to the fee prescribed by part I for bringing an action under section 507-47) ... \$15
- (30) Filing of any other paper not in a pending proceeding ..... \$3
- (31) Printing, publishing, or posting notice; service fees; garnishee fees; mileage charges; or other service<sup>1</sup> actually performed ..... Amounts necessary to cover actual costs or disbursements.’’

SECTION 4. Section 607-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) All proceedings in the courts of appeal shall be filed in the supreme court. Upon the filing of any appeal, or the institution of any original suit, action, or other proceeding in the supreme court, there shall be paid to the clerk of the supreme court by the person filing such appeal, or instituting the suit, action, or other proceeding, as costs of court, the sum of [\$75.] \$100.’’

SECTION 5. Section 633-29, Hawaii Revised Statutes, is amended to read as follows:

“**§633-29 Fees and costs; waiver.** The fee for issuing summons and copies, trial, judgment, and satisfaction in an action in the small claims division of the district court shall be not more than [\$10.] §35. Other fees shall be as prescribed by statute or rule of court. The judge may waive the prepayment of costs or the payment of costs accruing during the action upon the sworn statement of the plaintiff or upon other satisfactory evidence of the plaintiff’s inability to pay the costs.”

SECTION 6. Section 636C-6, Hawaii Revised Statutes, is amended to read as follows:

“~~[[]§636C-6[ ]]~~ **Fees.** Any person filing a foreign judgment shall pay [\$30] \$100 to the clerk of the court. Fees for docketing, transcription, or other enforcement proceedings shall be as provided by law for judgments of the court of this State.”

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 9. This Act shall take effect on July 1, 1998.

(Approved June 22, 1998.)

**Note**

1. Prior to amendment “services” appeared here.

**ACT 129**

S.B. NO. 2078

A Bill for an Act Relating to Ocean Recreation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 200-37, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (j) to read:

“(j) All commercial use and operator permits issued by the department for commercial thrill craft, and parasailing activities shall be fully transferable upon the payment of a business transfer fee in an amount determined by the department, which shall be no [less] greater than [ten] six per cent of the transfer price; provided that no more than one transfer every two years shall be authorized with respect to any given permit[.], except transfers between family members for the purpose of business reorganization.”

2. By amending subsections (m) and (n) to read:

“(m) Each commercial use and operator permit issued by the department for commercial thrill craft, and parasailing activities shall be valid for five years from the date of issuance and shall be renewed by the department for additional five-year periods, not to exceed a maximum of [ten] twenty years; provided that the permit holder shall have met the following conditions:

- (1) The permit holder shall be in compliance with all applicable rules of the department;

- (2) The permit holder shall have timely filed and paid all applicable state taxes during the year; and
- (3) The permit holder shall have a good safety record regarding the operation of a commercial thrill craft, or parasailing activity.

(n) Upon expiration of the [ten-year] twenty-year period, the permit may be offered for public auction as provided in this chapter; provided that the previous permit holder shall be offered the right of first refusal in accordance with departmental rules; and provided further that the permit holder shall agree to match the highest bid offered at the public auction.”

SECTION 2. Section 200-39, Hawaii Revised Statutes, is amended to read as follows:

**“§200-39 Kaneohe Bay ocean use activities; permits; restrictions.** (a) For the purposes of this section, “ocean use activities” means commercial operation of thrill craft, high speed boating, parasailing, water sledding, sailing and snorkeling tours, glassbottom boat tours, or any other similar commercial ocean recreation activity for hire.

(b) Any other provision of this chapter to the contrary notwithstanding, no person shall operate thrill craft, parasailing, water sledding, or commercial high speed boating unless the person meets the requirements of section 200-37 and all rules adopted by the department that regulate or restrict these activities.

(c) Permits issued by the department for the commercial operation of ocean use activities in Kaneohe Bay shall be limited to the number and locations, by permit type and vessel and passenger capacity, provided in the Kaneohe Bay master plan developed pursuant to Act 208, Session Laws of Hawaii 1990[;] and amended by section 200D-3; provided that passenger capacity for snorkeling tours and glassbottom boat tours shall be set through rules adopted pursuant to chapter 91. No thrill craft permit may be transferred after June 21, 1998; provided that transfers of permits may be made at any time between family members.

(d) On Sundays and federal holidays, all commercial ocean use activities shall be prohibited.

(e) All rules adopted by the department with regard to Kaneohe Bay shall be drafted in consultation with the Kaneohe Bay regional council and shall be in accordance with, and implement the recommendations in, the Kaneohe Bay master plan developed pursuant to Act 208, Session Laws of Hawaii 1990[.], and amended by section 200D-3.

[(f) The Kaneohe Bay regional council shall review and revise the master plan by December 1999, with the assistance of the office of planning of the department of business, economic development and tourism and the department.]”

SECTION 3. Section 200D-1, Hawaii Revised Statutes, is amended by amending the definition of “master plan” to read as follows:

““Master plan” means the Kaneohe Bay master plan developed pursuant to Act 208, Session Laws of Hawaii 1990[.], and amended by section 200D-3.”

SECTION 4. Section 200D-3, Hawaii Revised Statutes, is amended to read as follows:

**“[ ]§200D-3[ ] Kaneohe Bay regional council; general powers, duties, and functions.** The council shall have the following powers and duties and perform the following functions:

- (1) Facilitate the implementation of the master plan as it relates to ocean use activities;
- (2) Review and periodically amend the master plan as it relates to ocean use activities;
- [(2)] (3) Serve as a central coordinative clearinghouse of public and private activities in Kaneohe Bay, and as a repository and disseminator of information on the bay;
- [(3)] (4) Facilitate productive interaction between users of the bay and the general public in order to develop a common vision and make recommendations for public policy related to the bay;
- [(4)] (5) Recommend research, studies, data collection, and planning activities designed to provide additional information on Kaneohe Bay, with particular reference to the specific needs of the bay, and to publicize the results thereof, to the extent that these functions do not duplicate or supplant activities provided by other state or county agencies;
- [(5)] (6) Advise and make recommendations to the State and the county on matters regarding the use of Kaneohe Bay by the general public, marine research programs, and commercial ocean use activities, including legislative matters;
- [(6)] (7) Develop short- and long-term goals based on the master plan, resources, and programs for Kaneohe Bay;
- [(7)] (8) Educate the public and users of Kaneohe Bay on the problems and needs of the bay through public education programs;
- [(8)] (9) Serve as the public advocate for Kaneohe Bay;
- [(9)] (10) Initiate and maintain contact with public, private, county, and state organizations, agencies, and individuals engaging in activities in Kaneohe Bay;
- [(10)] (11) Establish a Kaneohe Bay fishing panel to monitor fishing activities in the bay, as recommended in the master plan as it relates to ocean use activities; and
- [(11)] (12) Hold annual public hearings until 1999 on the status of the implementation of the master plan as it relates to ocean use activities and research being conducted by the Hawaii institute of marine biology.”

SECTION 5. The Kaneohe Bay regional council, with the assistance of the department of business, economic development, and tourism and the department of land and natural resources, shall submit an amended Kaneohe Bay master plan to the legislature by December 1999.

SECTION 6. Notwithstanding any law to the contrary, the department of land and natural resources shall not implement any provision relating to the locations of the commercial operation of ocean use activities in Kaneohe Bay recommended in the Kaneohe Bay master plan developed pursuant to Act 208, Session Laws of Hawaii 1990, and amended by section 200D-3, Hawaii Revised Statutes, until the department adopts rules relating to these activities pursuant to chapter 91, Hawaii Revised Statutes, and in accordance with section 200-39(e), Hawaii Revised Statutes.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

**ACT 130**

SECTION 8. This Act shall take effect on July 1, 1998.

(Approved June 22, 1998.)

**Note**

- 1. Comma should be underscored.

**ACT 130**

H.B. NO. 1824

A Bill for an Act Relating to the Hawaii Health Systems Corporation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Notwithstanding section 323F-7(b), Hawaii Revised Statutes, or any other law to the contrary, all outstanding accounts receivable of the Hawaii health systems corporation that have been written off, returned from a private collection agency, or have delinquencies exceeding 365 days from the date of service shall be referred to the department of the attorney general collections unit for collection and legal enforcement of payments of debts owed to the State, the corporation, or both. The proceeds of any collections on these accounts by the department of the attorney general's collections unit shall be deposited into the health systems special fund.

SECTION 2. Notwithstanding any other law to the contrary, all full-time state employee positions in the attorney general's collections unit currently funded by the health systems special fund to provide collection services to the Hawaii health systems corporation shall remain as such; provided that the Hawaii health systems corporation shall expend \$650,000 or so much thereof as may be necessary for fiscal year 1998-1999 for such positions, including salaries and fringe benefits, and the planning, design, construction, and acquisition of equipment, furnishings, and software necessary for the development of a modern collections computer system.

SECTION 3. The department of the attorney general shall submit a report to the legislature no later than March 31, 1999 identifying all delinquent accounts owed to the Hawaii health systems corporation that were handled by the attorney general through December 31, 1998, and the disposition of those accounts.

SECTION 4. This Act shall take effect July 1, 1998, and shall be repealed on July 1, 1999.

(Approved June 22, 1998.)

**ACT 131**

H.B. NO. 3130

A Bill for an Act Relating to a Constitutional Convention.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Article XVII, section 2, of the Constitution of the State of Hawaii provides that the Legislature may submit to the electorate at any general or special election the question, "Shall there be a convention to propose a revision of or amendments to the Constitution?" The purpose of this Act is to provide for the submission of such question to be placed on the ballot at the general election of 1998.



SECTION 2. The Legislature hereby submits the question to be placed on the ballot as follows:

“Shall there be a convention to propose a revision of or amendments to the Constitution?”

SECTION 3. This Act shall take effect upon its approval.

(Approved June 22, 1998.)

## ACT 132

H.B. NO. 1966

A Bill for an Act Relating to Adult Residential Care Homes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 321, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§321- Adult residential care homes expanded admissions.** (a) Adult residential care homes may admit an individual who has been living immediately prior to admission in the individual’s own home, a hospital, or other care setting, and who has been either:

- (1) Admitted to a medicaid waiver program and determined by the department of human services to require nursing facility level care to manage the individual’s physical, mental, and social functions; or
- (2) A private-paying individual certified by a physician or advanced practice registered nurse as needing a nursing facility level of care.

(b) The department of health shall adopt rules in accordance with chapter 91 to expand admissions to adult residential care homes by level of care and to define and standardize these levels of care. The rules and standards shall provide for appropriate and adequate requirements for knowledge and training of adult residential care home operators and their employees.

**§321- Expanded adult residential care homes; licensing.** (a) All expanded adult residential care homes shall be licensed to ensure the health, safety, and welfare of the individuals placed therein.

(b) The director shall adopt rules regarding expanded adult residential care homes in accordance with chapter 91 which shall be a social model designed to:

- (1) Protect the health, safety, civil rights, and rights of choice of the persons to reside in a nursing facility or in home- or community-based care;
- (2) Provide for the licensing of expanded adult residential care homes for persons who are certified by the department of human services, a physician, advanced practice registered nurse, or registered nurse case manager as requiring skilled nursing facility level or intermediate care facility level of care who have no financial relationship with the home care operator or facility staff; provided that the rules shall allow group living in two categories of expanded adult residential care homes as licensed by the department of health:
  - (A) Type I home shall consist of five or less residents with no more than two nursing facility level residents; and

- (B) Type II home shall consist of six or more residents, with no more than twenty per cent of the home's licensed capacity as nursing facility level residents; provided that more nursing facility level residents may be allowed at the discretion of the department.
- (3) Comply with applicable federal laws and regulations of Title XVI of the Social Security Act, as amended; and
- (4) Provide penalties for the failure to comply with any rule.
- (c) The department may provide for the training of and consultations with operators and staff of any facility licensed under this section, in conjunction with any licensing thereof, and shall adopt rules to ensure that expanded adult residential care home operators shall have the needed skills to provide proper care and supervision in a home environment as required under department rules.
- (d) The department shall establish a standard admission policy and procedure which shall require the provision of information that includes the appropriate medical and personal history of the patient as well as the level of care needed by the patient prior to the patient's referral and admission to any expanded adult residential care home facility. The department shall develop appropriate forms and patient summaries for this purpose.
- (e) The department shall maintain an inventory of all facilities licensed under this section and shall maintain a current inventory of vacancies therein to facilitate the placement of individuals in such facilities."

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§346- Reimbursement to expanded adult residential care home operators.** Qualified expanded adult residential care home operators under section 321- who accept residents certified by the department as requiring skilled nursing facility level care shall be reimbursed based on the severity of the resident's disability.”

SECTION 3. Section 321-15.1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Expanded adult residential care home” means any facility providing twenty-four-hour living accommodations, for a fee, to adults unrelated to the family, who require at least minimal assistance in the activities of daily living, personal care services, protection, and health care services, and who may need the professional health services provided in an intermediate or skilled nursing facility.”

SECTION 4. Section 321-15.6, Hawaii Revised Statutes, is amended to read as follows:

**“§321-15.6 Adult residential care homes; licensing.** (a) All adult residential care homes shall be licensed to ensure the health, safety, and welfare of the individuals placed therein.

(b) The director shall adopt rules regarding adult residential care homes in accordance with chapter 91 which shall be designed to:

- (1) Protect the health, safety, and civil rights of persons residing in facilities regulated;
- (2) Provide for the licensing of adult residential care homes; provided that the rules shall allow group living in two categories of adult residential care homes as licensed by the department of health:

- (A) Type I allowing group living by five or fewer unrelated persons; and
- (B) Type II allowing six or more persons including but not limited to the mentally ill, elders, the handicapped, the developmentally disabled, or totally disabled persons who are not related to the home operator or facility staff.

For purposes of this section:

“Mentally ill person” means a mentally ill person as defined under section 334-1.

“Elder” [Definition effective until June 30, 1998. For definition effective July 1, 1998, see below.] means an elder as defined under section 201E-2.

“Elder” [Definition effective July 1, 1998.] means an elder as defined under sections 201G-1 and 201G-151.

“Handicapped person” means an individual with a physical handicap as defined under section 515-2.

“Developmentally disabled person” means a person with developmental disabilities as defined under section 333F-1.

“Totally disabled person” means a person totally disabled as defined under section 235-1;

- (3) Comply with applicable federal laws and regulations of Title XVI of the Social Security Act, as amended; and
- (4) Provide penalties for the failure to comply with any rule.
- (c) The department may provide for the training of and consultations with operators and staff of any facility licensed under this section, in conjunction with any licensing thereof, and shall adopt rules to ensure that adult residential care home operators shall have the needed skills to provide proper care and supervision in a home environment as required under department rules.

(d) The department shall establish a standard admission policy and procedure which shall require the provision of information that includes the appropriate medical and personal history of the patient as well as the level of care needed by the patient prior to the patient’s referral and admission to any adult residential care home facility. The department shall develop appropriate forms and patient summaries for this purpose.

(e) The department shall maintain an inventory of all facilities licensed under this section and shall maintain a current inventory of vacancies therein to facilitate the placement of individuals in such facilities.

(f) The department shall develop and adopt a social model of health care to ensure the health, safety, and welfare of individuals placed in adult residential care homes. The model of care shall be designed to protect the health, safety, civil rights, and rights of choice of the persons to reside in a nursing facility or in home- or community-based care.”

SECTION 5. Nothing in this Act shall be construed to require expanded adult residential care homes to comply with the licensing requirements set forth in title 11, chapter 301, Hawaii Administrative Rules.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect July 1, 1999; provided that section 4 of this Act shall take effect upon its approval.

(Approved June 24, 1998.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 133

H.B. NO. 2862

A Bill for an Act Relating to Services for Developmental Disabilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 333F-1, Hawaii Revised Statutes, is amended by amending the definition of “individualized service plan” to read:

““Individualized service plan” means the written plan required by section 333F-6[.] that is developed by the individual, with the input of family, friends, and other persons identified by the individual as being important to the planning process. The plan shall be a written description of what is important to the person, how any issue of health or safety shall be addressed, and what needs to happen to support the person in the person’s desired life.”

SECTION 2. Section 333F-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The department shall develop, lead, administer, coordinate, monitor, evaluate, and set direction for a comprehensive system of supports and services for persons with developmental disabilities or mental retardation within the limits of state or federal resources allocated or available for the purposes of this chapter. The department shall administer or may provide available supports and services based on a client-centered plan, which resulted from client choices and decision-making that allowed and respected client self-determination.

The department’s responsibility for persons with developmental disabilities or mental retardation shall be under one administrative unit for the purpose of coordination, monitoring, evaluation, and delivery of services. Not later than June 30, [1998,] 1999, all programs and services falling under this chapter shall be provided in the community, including services presently provided at Waimano training school and hospital. When the private sector does not provide or is not able to provide the services, the department shall provide the services. Clients at Waimano training school and hospital shall be placed into community-based programs provided appropriate support services are available.

The department shall convene a panel not later than August 1, 1995, to create a plan to provide services in the community and to ensure that the transition of Waimano training school and hospital residents to the community will be client-centered, taking into consideration the health, safety, and happiness of the residents and the concerns of their families. The panel shall consist of but not be limited to consumers, families, representatives from the private sector, employees and employee representatives, professionals, representatives of the University of Hawaii affiliate program, and representatives of the state planning council on developmental disabilities.”

SECTION 3. Section 333F-7, Hawaii Revised Statutes, is amended to read as follows:

“§333F-7 **Provision of services.** [Based upon the individualized service plan, the department, as may be required, shall refer the person to services provided

by the department under this chapter, to services provided under other federal or state laws, or to services provided by appropriately licensed private agencies.] The department shall:

- (1) Assist the individual to develop, with the help of family and friends if necessary, an individualized service plan;
- (2) Identify the amount of dollars available to the individual to effectuate the individualized service plan; and
- (3) Allow consumers to direct the expenditure of the identified funds.”

SECTION 4. Section 333F-8, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Persons with developmental disabilities or mental retardation shall have the following rights:

- (1) To receive the least restrictive, individually appropriate services, including a program of activities outside the residence in accordance with the person’s individualized service plan;
- (2) To reside in the least restrictive, individually appropriate residential alternative located as close as possible to the person’s home community within the State;
- (3) To the extent it is individually appropriate as decided after due consideration afforded the preferences of the person with developmental disabilities or mental retardation, to:
  - (A) Interact with persons without disabilities in a nontreatment, nonservice-oriented setting;
  - (B) Live with, or in close proximity to, persons without disabilities; and
  - (C) Live in a setting which closely approximates those conditions available to persons without disabilities of the same age;
- (4) To reasonable access to review medical, service, and treatment files and to be informed of diagnoses;
- (5) To [participate in the development of the individualized service plan, if able to participate, or to be represented by a parent, guardian, or other representative as appropriate;] develop a plan with the input of family and friends that identifies the supports needed to accomplish the plan rather than purchase a program;
- (6) To [receive a copy of the person’s individualized service plan; and] control, with the help of family and friends as necessary, an identified amount of dollars to accomplish the plan;
- (7) To direct the provision of resources, both paid and unpaid, that will assist an individual with a disability to live a life in the community rich in community association and contribution;
- (8) To a valued role in the community through employment, participation in community activities, volunteering, including being accountable for spending public dollars in ways that are life enhancing; and
- [(7)] (9) To privacy and confidentiality, to the extent possible, in connection with services provided to the person.”

SECTION 5. Act 189, Session Laws of Hawaii 1995, is amended by amending section 26 to read as follows:

“SECTION 26. This Act shall take effect upon its approval, except that sections 1, 2, 13, 14, 15, 16, 17, 18, 19, and 20 shall take effect on June 30, [1998.]

**ACT 134**

1999. The provision of case management services<sup>1</sup> as required under section 4 of this Act<sup>1</sup> shall take effect on June 30, 1996.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect on June 29, 1998.

(Approved June 24, 1998.)

**Note**

1. Prior to amendment “;” appeared here.

**ACT 134**

S.B. NO. 2987

A Bill for an Act Relating to Child Protection.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that child abuse has become a serious problem which requires broad-based community action to prevent children from becoming innocent victims. Recent trends across the country in dealing with this problem have been to provide alternatives to the traditional philosophy of returning the abused child to the natural family, which may not be in the best interests of the child’s safety. Providing a child with a safe home should be the ultimate concern, regardless of whether a safe home be the natural family, adoptive family, or foster family.

Although the issue of family reunification versus safety-first has been predominantly on the public’s mind due to recent news coverage that shed light on child abuse, other important changes in the child protective services system must be evaluated. For instance, a frustration among all parties involved in protecting a child from harm is the closed child protective services system. The legislature finds that child protective services need to be open, accessible, and communicative to affected persons. This recommendation includes such changes as requiring that all reports related to child abuse or neglect be submitted to the department of human services and subsequently to the court, allowing foster parents to seek medical care for their wards upon the first day of placement, and allowing physicians to share medical information if a child is under the child protective services system.

The purpose of this Act is to reform the child protective services system and to save the lives of innocent children by ensuring that:

- (1) A child who is removed from dangerous or neglectful situations in the natural home is not placed in worse situations once the child is taken into state custody; and
- (2) A child receives adequate medical treatment to help the child overcome any problems created by the trauma the child has experienced.

SECTION 2. Chapter 587, Hawaii Revised Statutes, is amended by adding four new sections to be appropriately designated and to read as follows:

“§587- **Medical treatment.** Each child placed in foster care shall be covered by an established comprehensive health care plan meeting the requirements of the department. Each child placed in foster care shall be provided with evidence of the child’s coverage under an established comprehensive health care plan including the telephone number of the child’s health plan. Upon the first day of placement,

foster parents may seek and obtain ordinary medical care, immunizations, and well-baby and well-child medical services.

**§587- Health assessment.** The department shall ensure the provision of a comprehensive health assessment for each child in out-of-home placement forty-five days before or after an initial placement.

**§587- Disclosure of records.** (a) The department shall disclose to foster parents and the foster child's principal treating physician copies of the foster child's complete medical records in the department's physical custody and relevant social history within thirty days of foster placement.

(b) If a child is active in the child protective service system, physicians may share with other physicians, orally or in writing, or both, medical information without parental consent.

(c) Any records or information released to a foster child's foster parents, or the foster child's principal treating physician pursuant to subsection (a), or any information shared by one physician with another physician pursuant to subsection (b), shall remain confidential in accordance with section 350-1.4.

**§587- Child protective review panel.** (a) The department shall establish a child protective review panel to review each case of serious abuse. Based upon its review, the panel shall submit a report of findings and recommendations to the director. The department shall appoint members of the child protective review panel who may include, but not be limited to:

- (1) Any physician treating the child for abuse;
- (2) Any child protective services worker assigned to the case and the worker's supervisor;
- (3) The guardian ad litem for the child, appointed under section 587-34, if applicable;
- (4) The members of the child's multidisciplinary team or child protective services consultant; and
- (5) Other child protective services workers and supervisors.

(b) Members of the child protective review panel shall serve without compensation and shall not be reimbursed for costs, except for state employees serving within the scope of their employment who shall receive compensation and reimbursements as provided by law or by collective bargaining.

(c) Members of the child protective review panel shall be immune from any liability for injuries and damages arising from the panel's report under subsection (a).

(d) This section shall not be construed as interfering with any authority of the department or the courts to remove, to place, or to order any disposition on custody of the abused child under this chapter.

(e) As used in this section, "serious abuse" means reabuse, hospitalization, or death arising from an abuse."

SECTION 3. Section 587-2, Hawaii Revised Statutes, is amended by adding the definition of "aggravated circumstances" to be appropriately inserted and to read as follows:

““Aggravated circumstances” means that:

- (1) The parent has committed, or has aided or abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of another child of the parent;

- (2) The parent has committed a felony assault that results in serious bodily injury to the child or another child of the parent;
- (3) The parental rights to a sibling have been terminated involuntarily pursuant to chapter 571; or
- (4) A court has made a determination regarding a sibling under section 587-73(a) of the presence of the situation described under section 587-73(a)(1) or (2), or both.”

SECTION 4. Section 350-1.1, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The initial oral report shall be followed as soon [thereafter] as possible by a report in writing[; provided that where] to the department. If a police department is the initiating agency, a written report shall [not be required to] be filed with the department [unless the police department has declined to take further action and the department informs the police department that it intends to pursue the matter of the orally reported incident of child abuse or neglect.] for cases that the police take further action on or for active cases in the department under this chapter. All written reports shall contain the name and address of the child and the child’s parents or other persons responsible for the child’s care, if known, the child’s age, the nature and extent of the child’s injuries, and any other information that the reporter believes might be helpful or relevant to the investigation of the child abuse or neglect. This subsection shall not be construed to serve as a cause of action against the department or the police.”

SECTION 5. Section 350-2, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The department shall maintain a central registry of reported child abuse or neglect cases and shall promptly expunge the reports in cases [where:] if:

- (1) The department has found the reports to be unsubstantiated; or
- (2) The petition arising from the report has been dismissed by order of the family court after an adjudicatory hearing on the merits pursuant to chapter 587.

For purposes of expungement under [(c)] paragraph (1) [above], a report is unsubstantiated only when the department has found the allegations [contained therein] to be frivolous or to have been made in bad faith.

However, the department may retain records and information of alleged child abuse and neglect with respect to the child that is the subject of the alleged abuse.

The department shall adopt [such] rules as may be necessary in carrying out this section.”

SECTION 6. Section 587-1, Hawaii Revised Statutes, is amended to read as follows:

“**§587-1 Purpose; construction.** This chapter creates within the jurisdiction of the family court a child protective act [in order to safeguard, treat, and provide service and permanent plans for children who have been harmed or are threatened with harm.] to make paramount the safety and health of children who have been harmed or are in life circumstances that threaten harm. Furthermore, this chapter makes provisions for the service, treatment, and permanent plans for these children and their families.

The legislature finds that children deserve and require competent, responsible parenting and safe, secure, loving, and nurturing homes. The legislature finds



that children who have been harmed or are threatened with harm are less likely than other children to realize their full educational, vocational, and emotional potential, and become law-abiding, productive, self-sufficient citizens, and are more likely to become involved with the mental health system, the juvenile justice system, or the criminal justice system, as well as become an economic burden on the State. The legislature finds that prompt identification, reporting, investigation, services, treatment, adjudication, and disposition of cases involving children who have been harmed or are threatened with harm are in the children's, their families', and society's best interests because the children are defenseless, exploitable, and vulnerable.

The policy and purpose of this chapter is to provide children with prompt and ample protection from the harms detailed herein, with an opportunity for timely reconciliation with their families [where practicable,] if the families can provide safe family homes, and with timely and appropriate service or permanent plans to ensure the safety of the child so they may develop and mature into responsible, self-sufficient, law-abiding citizens. The service plan shall effectuate the child's remaining in the family home, when the family home can be immediately made safe with services, or the child's returning to a safe family home. The service plan should be carefully formulated with the family in a timely manner. Every reasonable opportunity should be provided to help the child's legal custodian to succeed in remedying the problems which put the child at substantial risk of being harmed in the family home. Each appropriate resource, public and private, family and friend, should be considered and used to maximize the legal custodian's potential for providing a safe family home for the child. Full and careful consideration should be given to the religious, cultural, and ethnic values of the child's legal custodian when service plans are being discussed and formulated. [It should be recognized at each stage of the child protective proceeding that the child will always be a natural member of the child's birth family. In making each determination, all involved should consider the fact that the child's best interests may well be forever intertwined with those of the child's birth family, even where the legal custodian is determined to be either unwilling or unable to provide the child with a safe family home.] Where the court has determined, by clear and convincing evidence, that the child cannot be returned to a safe family home, the child will be permanently placed in a timely manner.

The department's child protective services provided under this chapter shall make every reasonable effort to be open, accessible, and communicative to the persons affected in any manner by a child protective proceeding; provided that the safety and best interests of the child under this chapter shall not be endangered in the process.

This chapter shall be liberally construed to serve the best interests of the children and the purposes set out in this chapter."

SECTION 7. Section 587-21, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Upon satisfying itself as to the course of action [which] that should be pursued to best accord with the purpose of this chapter, the department shall:

- (1) Resolve the matter in [such] an informal fashion[, as is] appropriate under the circumstances;
- (2) Seek to enter into a service plan, without filing a petition in court, with [such] members of the child's family and [such] other authorized agency as the department deems [to be] necessary to the success of the service plan, including[,] but not limited to, the member or members of the child's family who have legal custody of the child. The service plan may include an agreement with the child's family to voluntarily place

the child in the foster custody of the department or other authorized agency, or to place the child and the necessary members of the child's family under the family supervision of the department or other authorized agency; provided that if a service plan is not successfully completed within six months, the department shall file a petition or ensure that a petition is filed by another appropriate authorized agency in court under this chapter and the case shall be [otherwise] reviewed as is required by federal law;

- (3) Assume temporary foster custody of the child pursuant to section 587-24(a) and file a petition with the court under this chapter within [two] three working days, excluding Saturdays, Sundays, and holidays, after the date of the department's assumption of temporary foster custody of the child; or
- (4) File a petition or ensure that a petition is filed by another appropriate authorized agency in court under this chapter."

SECTION 8. Section 587-24, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) Within [two] three working days, excluding Saturdays, Sundays, or holidays, after the date of its assumption of temporary foster custody, the department shall:

- (1) Relinquish its temporary foster custody and return the child to the child's legal custodian and proceed pursuant to section 587-21(b)(1), (2), or (4);
- (2) Continue its assumption of temporary foster custody of the child with the child being voluntarily placed in foster care by the child's legal custodian and proceed pursuant to section 587-21(b)(2) or (4); or
- (3) Continue its assumption of temporary foster custody of the child and proceed pursuant to section 587-21(b)(3)."

SECTION 9. Section 587-40, Hawaii Revised Statutes, is amended to read as follows:

**"§587-40 Reports to be submitted by the department and authorized agencies; social worker expertise.** (a) The department or other appropriate authorized agency shall make every reasonable effort to submit written reports, or a written explanation regarding why a report is not being submitted timely, to the court with copies to the parties or their counsel or guardian ad litem:

- (1) Within forty-eight hours, excluding Saturdays, Sundays, and holidays, subsequent to the hour of the filing of a petition for temporary foster custody pursuant to section 587-21(b)(3);
  - (2) Upon the date of the filing of a petition pursuant to section 587-21(b)(4); and
  - (3) At least fifteen days prior to the date set for each disposition, review, permanent plan, and permanent plan review hearing, until jurisdiction is terminated, unless a different period of time is ordered by the court or the court orders that no report is required for a specific hearing; or
  - (4) Prior to or upon the date of a hearing if the report is supplemental to a report [which] that was submitted pursuant to paragraph (1), (2), or (3).
- (b) Report or reports pursuant to subsection (a) specifically shall:

- (1) Assess fully all relevant prior and current information concerning each of the safe family home guidelines, as set forth in section 587-25, except for a report required for an uncontested review hearing or a

permanent plan review hearing [which] that need only assess relevant current information including, for a review hearing, the degree of the family's progress with services;

- (2) In each proceeding, subsequent to adjudication, recommend as to whether the court should order:
- (A) A service plan as set forth in section 587-26 or revision [or revisions] to the existing service plan[,] and, if so, set forth the proposed service [or services] or revision [or revisions] and the pertinent number [or numbers] of the guidelines considered in the report [or reports], made pursuant to paragraph (1), which guideline or guidelines provide the basis for recommending the service [or services] or revision [or revisions] in a service plan or revised service plan; or
- (B) A permanent plan or revision to an existing permanent plan and if it is an initial recommendation, set forth the basis for the recommendation [which] that shall include, but not be limited to, an evaluation of each of the criteria set forth in section 587-73(a), including the written permanent plan as set forth in section 587-27; and
- (3) Set forth recommendations as to [such] other orders [as are] deemed to be appropriate and state the basis for recommending that the orders be entered.

(c) A written report pertaining to cases pending before the family court submitted by the department pursuant to subsection (a) shall be submitted to the court in its entirety, and shall include the following:

- (1) Any report, or medical or mental health consultation, generated by a child protective services multidisciplinary team or consultant in its entirety; and
- (2) All other relevant information on placement of the child.

[(c)] (d) A written report submitted [pursuant to subsection (a)] under this section shall be admissible and may be relied upon to the extent of its probative value in any proceeding under this chapter; provided that the person or persons who prepared the report may be subject to direct and cross-examination as to any matter in the report, unless the person is unavailable.

[(d)] (e) A person employed by the department as a social worker in the area of child protective or child welfare services is qualified to testify as an expert in the area of social work and child protective or child welfare services."

SECTION 10. Section 587-53, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) [In any case where] If the department has continued to assume temporary foster custody of a child pursuant to section 587-24(e)(3), the court shall set a temporary foster custody hearing within two working days, excluding Saturdays, Sundays, and holidays, after the filing of a petition to determine whether the best interests of the child require further protection prior to an adjudicatory determination.”

SECTION 11. Section 587-71, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (h) to read:

“(h) Prior to ordering a service plan at the disposition or continued disposition hearing, the court shall make a finding that each term, condition, and conse-

quence of the service plan has been thoroughly explained to and is understood by each party or a party's guardian ad litem[.]; provided that the court need not order a service plan and may proceed pursuant to 587-72(c)(7) if the court finds that aggravated circumstances are present."

2. By amending subsection (i) to read:

"(i) After [such] a hearing [as] that the court deems to be appropriate, the court may order [such] terms, conditions, and consequences to constitute a service plan as the court deems to be in the best interests of the child; provided that a copy of the service plan shall be incorporated as part of the order. The court need not order a service plan and may proceed pursuant to 587-72(c)(7) if the court finds that aggravated circumstances are present."

3. By amending subsection (l) to read:

"(l) The court shall order reasonable supervised or unsupervised visitation rights to the child's family and to any person interested in the welfare of the child and that [such] the visitation shall be in the discretion of an authorized agency and the child's guardian ad litem, unless it is shown that [such] rights of visitation may be detrimental to the best interests of the child[.]; provided that the court need not order any visitation if the court finds that aggravated circumstances are present."

SECTION 12. Section 587-72, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Upon each review hearing the court shall consider fully all relevant prior and current information pertaining to the safe family home guidelines, as set forth in section 587-25, including[,] but not limited to, the report [or reports] submitted pursuant to section 587-40, and:

- (1) Determine whether the child's family is presently willing and able to provide the child with a safe family home without the assistance of a service plan and, if so, the court shall terminate jurisdiction;
- (2) Determine whether the child's family is presently willing and able to provide the child with a safe family home with the assistance of a service plan and, if so, the court shall return the child or continue the placement of the child in the child's family home under the family supervision of the appropriate authorized agency;
- (3) If the child's family home is determined, pursuant to subsection (c)(2), not to be safe, even with the assistance of a service plan, order that the child remain or be placed under the foster custody of the appropriate authorized agency [and, the court may, and]; if the child has been residing without the family home for a period of [eighteen] twelve months or if there has been a court ordered service plan for a period of one year [shall], the court may set the case for a show cause hearing at which the child's family shall have the burden of presenting evidence to the court regarding [such] the reasons and considerations as the family has to offer as to why the case should not be set for a permanent plan hearing. Upon [such] a show cause hearing [as] that the court deems to be appropriate, the court shall consider the criteria set forth in section 587-73(a)(1), (2), and (4), or section 587-73(e), and:
  - (A) Set the case for a permanent plan hearing and order that the authorized agency submit a report pursuant to section 587-40; or
  - (B) Proceed pursuant to this section;
- (4) Determine whether the parties have complied with, performed, and completed [each and] every term and condition of the service plan [which] that was previously court ordered;

- (5) Order [such] revisions to the existing service plan, after [ensuring that the requirement of] satisfying section 587-71(h) [is satisfied], as the court, upon [such] a hearing [as] that the court deems to be appropriate, determines to be in the best interests of the child; provided that a copy of the revised service plan shall be incorporated as part of the order; [and]
- (6) Enter [such] further orders as the court deems to be in the best interests of the child[.]; and
- (7) Determine whether aggravated circumstances are present and, if so, the court shall set the case for a show cause hearing at which the child's family shall have the burden of presenting evidence to the court regarding the reasons and considerations as to why the case should not be set for a permanent plan hearing.'

SECTION 13. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 14. This Act shall take effect upon its approval.

(Approved June 24, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 135**

H.B. NO. 3527

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds for Projects on the Island of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that it is in the public interest to encourage the development of cogeneration facilities that make electric energy available to members of the general public by the sale of the electric energy to an electric utility.

The legislature further finds that Hui 'Enekinia Hawai'i is engaged in the development of cogeneration facilities which will sell the electric energy it produces to Hawaii Electric Light Company, Inc., which is an electric utility serving the public. The thermal output produced can be used by existing and planned manufacturing and processing enterprises.

The legislature further finds that Hui 'Enekinia Hawai'i may be assisted through the issuance of special purpose revenue bonds because it is an industrial enterprise pursuant to part V, chapter 39A, Hawaii Revised Statutes.

The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare of the State.

The purposes of this Act are:

- (1) To extend from June 30, 1998 to June 30, 2003, the authorization of special purpose revenue bonds previously authorized by Act 263, Session Laws of Hawaii 1993; and
- (2) To increase the amount of special purpose revenue bonds that may be issued to Hui 'Enekinia Hawai'i.

SECTION 2. Act 263, Session Laws of Hawaii 1993, is amended to read as follows:

1. By amending section 2 to read as follows:

“SECTION 2. Pursuant to part V, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue in one or more series special purpose revenue bonds in a total amount not to exceed [\$10,000,000,] \$20,000,000, for the purpose of assisting Hui ‘Enekinia Hawai‘i, or a partnership in which Hui ‘Enekinia Hawai‘i is a general partner, for the establishment of a cogeneration facility and related water production facilities. The electrical output of this plant and facilities shall be made available for use by members of the general public by sale to Hawaii Electric Light Company, Inc. The water and thermal fluids output of this plant and related facilities shall be made available for use by members of the general public by sale to existing and planned manufacturing and processing entrepreneurs in the area. The legislature finds and determines that the activity and facilities of Hui ‘Enekinia Hawai‘i constitute a project as defined in part V, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise.”

2. By amending section 4 to read as follows:

“SECTION 4. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, [1998.] 2003.”

SECTION 3. Session law material to be repealed is bracketed. New session law material is underscored.

SECTION 4. This Act shall take effect on June 29, 1998.

(Approved June 24, 1998.)

ACT 136

S.B. NO. 2334

A Bill for an Act Relating to Time Sharing Plans.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 514E-11, Hawaii Revised Statutes, is amended to read as follows:

“**§514E-11 Prohibited practices.** It is a violation of this chapter for any sales agent or acquisition agent of time share units or plans to:

- (1) Fail to comply with the disclosure requirements set forth in section 514E-9 or any rule adopted pursuant thereto;
- (2) Use any promotional device, including but not limited to entertainment, prizes, gifts, food and drinks, games, transportation, luaus, ocean recreational activities, land recreational activities, aerial recreational activities, or tours, or other inducements, or make any offer thereof, without fully disclosing orally and as provided in paragraph (3) that the device is being used or offered for the purpose of soliciting sales of time share units or interests;
- (3) Offer a prospective purchaser a prize or gift as part of any time share advertising or sales promotion plan, if in order to claim the prize, the prospective purchaser must attend and complete a sales presentation, unless written disclosure is furnished to the prospective purchaser at the time the prospective purchaser is notified of the prize or gift; provided that the written disclosure is written or printed in a size equal to at least ten-point bold type and contains all of the following:

- (A) A full description of the exact prize or gift won by the prospective purchaser including its cash value;
  - (B) All terms and conditions attached to the prize or gift;
  - (C) A statement that the consumer must attend and complete a sales presentation; and
  - (D) An identification of the time share project to be offered for sale including type of ownership, exchange privileges, limitations, and price ranges of the time share interests in that project;
- (4) Misrepresent or deceptively represent any material fact concerning the time share plan or time share unit;
  - (5) Make any representation that a time share interest is an investment, including but not limited to the value of the interest at resale;
  - (6) Fail to honor and comply with all provisions of a contract or reservation agreement with the purchaser;
  - (7) Include, in any contract or reservation agreement, provisions purporting to waive any right or benefit provided for purchasers pursuant to this chapter;
  - (8) Receive from any prospective purchaser any money, property (including but not limited to a credit card), or other valuable consideration prior to signing a contract or reservation agreement for the purchase of a time share plan or unit;
  - (9) Make any agreement or contract with a purchaser before delivering, furnishing, or tendering to that prospective purchaser any promised promotional device or other instrument;
  - (10) Distribute any promotional or disclosure material separately if the material was filed in a consolidated form;
  - (11) Use any unregistered time share booth, or fail to display at all times a conspicuous, clear, and unobstructed sign of a permanent nature:
    - (A) Containing no artwork or text except:
      - (i) The name of the time share plan or plans with which the booth is affiliated, which must be printed in capital, block-style letters at least one inch tall using bold black lettering against a white background; and
      - (ii) At least one inch beneath the name of the time share plan or plans[;], the words "TIME SHARE", which must be printed in capital, block-style letters at least three and one-half inches tall using bold black lettering against a white background;
    - (B) With minimum dimensions of nine inches by twenty-four inches, excluding any frame;
    - (C) Permanently affixed to each side of the booth facing the public, in an upright position, perpendicular to the ground, and easily visible to passersby; and
    - (D) Consistent with such rules as the director may adopt pursuant to this chapter and consistent also with county ordinances.

As used in this paragraph, "sign of a permanent nature" specifically excludes banners, grease boards, marker boards, handwritten signs, or signs constructed of temporary materials such as paper, poster board, or cardboard;
  - (12) Misrepresent the amount of fees to be charged, including management fees, or the structure for future fee increase; or
  - (13) Sell, offer for sale, or advertise for sale, by any person, partnership, firm, corporation, joint stock company, or other association engaged in marketing time share plans within the State, any tourist activity, includ-

## ACT 137

ing[.] but not limited to land, aerial, or water recreational activities, at less than the actual cost of the activity paid for by the licensee thereof to such vendor or give, offer to give, or advertise with the intent to give away any such tourist activity with the purpose or effect of inducing the [vendee] prospective purchaser to purchase a time share plan or to attend a time share marketing event.

Any violation of this section shall also constitute an unlawful or deceptive practice within the meaning of section 480-2; provided that in addition violations of section 514E-31 or of paragraph (11) shall result in a fine of not less than \$50 for each separate offense for a maximum aggregate amount of \$500.”

SECTION 2. Act 331, Session Laws of Hawaii 1993, is amended by amending section 3 to read as follows:

“SECTION 3. This Act shall take effect upon its approval. [Paragraph (13) of section 514E-11 shall be automatically repealed five years from the effective date of this Act.]”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on June 22, 1998.

(Approved June 24, 1998.)

## ACT 137

S.B. NO. 2983

A Bill for an Act Relating to Office of Information Practices.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that chapter 92, Hawaii Revised Statutes, popularly known as the “Sunshine Law” is not administered by any particular agency. While the law is enforced by the attorney general, there is no one agency in government which is responsible for overseeing compliance of open meeting requirements in a manner similar to the law requiring open government records. Similarly, there is no single agency that collects, investigates, responds to inquiries, or reports to the legislature about all open meeting violations.

The purpose of this Act is to establish a temporary office of information practices, to be administratively attached to the office of the lieutenant governor and administered by the director of information practices. The office of information practices is established for the special purpose of bringing together the administration of the open meetings law and the open records law.

SECTION 2. Chapter 92, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“§92- Administration of this part. The director of the office of information practices shall administer this part. The director shall establish procedures for filing and responding to complaints filed by any person concerning the failure of any board to comply with this part. The director of the office of information practices shall submit an annual report of these complaints along with final resolution of



complaints, and other statistical data to the legislature, no later than twenty days prior to the convening of each regular session.”

SECTION 3. Section 26-1, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) In addition to the functions and duties provided by law, the lieutenant governor shall assume administrative responsibility for the Hawaii state commission on the status of women[.] and the office of information practices.”

SECTION 4. Section 92F-41, Hawaii Revised Statutes, is amended to read as follows:

“**§92F-41 Office of information practices[.]; established.** (a) There [shall be within the department of the attorney general, for administrative purposes only, an] is established a temporary office of information practices[.] for a special purpose within the office of the lieutenant governor for administrative purposes.

(b) The governor shall appoint[, not subject to chapters 76 and 77,] a director of the office of information practices [who is] to be its chief executive officer[.] and who shall be exempt from chapters 76 and 77.

(c) All powers and duties of the office of information practices are vested in the director and may be delegated to any other officer or employee of the office.

(d) The director may employ [such] any other personnel [as] that are necessary, including but not limited to attorneys and clerical staff[.] None of the employees shall be subject to chapter 76 or 77.[.] without regard to chapters 76 and 77.”

SECTION 5. Section 92F-42, Hawaii Revised Statutes, is amended to read as follows:

“**§92F-42 Powers and duties of the office of information practices.** The director of the office of information practices:

- (1) Shall, upon request, review and rule on an agency denial of access to information or records, or an agency’s granting of access; provided that any review by the office of information practices shall not be a contested case under chapter 91 and shall be optional and without prejudice to rights of judicial enforcement available under this chapter;
- (2) Upon request by an agency, shall provide and make public advisory guidelines, opinions, or other information concerning that agency’s functions and responsibilities;
- (3) Upon request by any person, may provide advisory opinions or other information regarding that person’s rights and the functions and responsibilities of agencies under this chapter;
- (4) May conduct inquiries regarding compliance by an agency and investigate possible violations by any agency;
- (5) May examine the records of any agency for the purpose of paragraph (4) and seek to enforce that power in the courts of this State;
- (6) May recommend disciplinary action to appropriate officers of an agency;
- (7) Shall report annually to the governor and the state legislature on the activities and findings of the office of information practices, including recommendations for legislative changes;
- (8) Shall receive complaints from and actively solicit the comments of the public regarding the implementation of this chapter;

- (9) Shall review the official acts, records, policies, and procedures of each agency;
- (10) Shall assist agencies in complying with the provisions of this chapter;
- (11) Shall inform the public of the following rights of an individual and the procedures for exercising them:
  - (A) The right of access to records pertaining to the individual;
  - (B) The right to obtain a copy of records pertaining to the individual;
  - (C) The right to know the purposes for which records pertaining to the individual are kept;
  - (D) The right to be informed of the uses and disclosures of records pertaining to the individual;
  - (E) The right to correct or amend records pertaining to the individual; and
  - (F) The individual's right to place a statement in a record pertaining to that individual;
- (12) Shall adopt rules that set forth an administrative appeals structure which provides for:
  - (A) [agency] Agency procedures for processing records requests;
  - (B) [a] A direct appeal from the division maintaining the record; and
  - (C) [time] Time limits for action by agencies;
- (13) Shall adopt rules that set forth the fees and other charges that may be imposed for searching, reviewing, or segregating disclosable records, as well as to provide for a waiver of [such] fees when the public interest would be served;
- (14) Shall adopt rules which set forth uniform standards for the records collection practices of agencies;
- (15) Shall adopt rules that set forth uniform standards for disclosure of records for research purposes;
- (16) Shall have standing to appear in cases where the provisions of this chapter are called into question; [and]
- (17) Shall adopt, amend, or repeal rules pursuant to chapter 91 necessary for the purposes of this chapter[.]; and
- (18) Shall take action to oversee compliance with part I of chapter 92 by all state and county boards including:
  - (A) Receiving and resolving complaints;
  - (B) Advising all government boards and the public about compliance with chapter 92; and
  - (C) Reporting each year to the legislature on all complaints received pursuant to section 92-\_\_\_\_\_."

SECTION 6. All rights, powers, functions, and duties of the department of the attorney general, relating to the office of information practices, are transferred to the office of the lieutenant governor; provided that no employee shall suffer any loss of salary, prior service credit, vacation, sick leave, or other employee benefit or privilege, as a consequence of the transfer.

All employees of the office of information practices not subject to chapters 76 and 77, Hawaii Revised Statutes, are transferred to comparable positions within the office of the lieutenant governor. All employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.

Any employee of the office of information practices subject to chapters 76 and 77, Hawaii Revised Statutes, may elect to transfer to the office of the lieutenant governor. If an employee elects to transfer to the office of the lieutenant governor,

the employee shall not thereafter be subject to chapters 76 and 77, Hawaii Revised Statutes, but shall not suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act. If an employee of the office of information practices subject to chapters 76 and 77, Hawaii Revised Statutes, elects not to transfer to the office of the lieutenant governor, the employee, with the same pay and classification, shall be transferred to positions within the executive branch for which the employee is eligible under the applicable personnel laws of the State without any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act.

SECTION 7. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, computer software and data, authorizations, and other personal property previously made, used, acquired, or held by the office of information practices relating to the functions transferred to the office of the lieutenant governor shall be transferred with the function to which they relate.

SECTION 8. Rules adopted by the office of information practices on the effective date of this Act shall remain in force and effect until amended or repealed by the office of information practices following its transfer to the office of the lieutenant governor.

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 10. This Act shall take effect on July 1, 1998.

(Approved June 24, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 138**

H.B. NO. 2361

A Bill for an Act Relating to Motor Vehicle Towing Fees.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 290-11, Hawaii Revised Statutes, is amended to read as follows:

**“§290-11 Vehicles left unattended on private and public property; sale or disposition of abandoned vehicles.** (a) Notwithstanding any other provision of this chapter, any vehicle left unattended on private or public property without authorization of the owner or occupant of the property, may be towed away at the expense of the owner of the vehicle, by order of the owner, occupant, or person in charge of the property; provided that there is posted a notice prohibiting vehicles to park on the property without authorization. The notice shall state where the vehicle will be towed and held. The notice shall be of such size and be placed in a location reasonably calculated to call the sign to the attention of potential parkers.

(b) Towing companies engaged by the owner, occupant, or person in charge of the property shall charge not more than [~~\$40~~] \$50 for a tow, or [~~\$50~~] \$60 for a tow using a dolly, plus a mileage charge of [~~\$4~~] \$5 per mile towed and [~~\$10~~] \$15 per day

or fraction thereof for storage for the first seven days and [~~\$5~~] \$10 per day thereafter. When the tow occurs between the hours of six o'clock p.m. and six o'clock a.m., the towing company shall be entitled to an overtime charge of [~~\$10.~~] \$15. If the vehicle is in the process of being hooked up to the tow truck and the owner appears on the scene before the vehicle has been moved by the tow truck, the towing company shall be entitled to an "unhooking" fee of not more than [~~\$40.~~] \$50. In the case of a difficult hookup, meaning an above or below ground hookup in a multilevel facility, a towing surcharge of \$25 shall be applicable.

The towing company shall determine the name of the legal owner and the registered owner of the vehicle from the department of transportation or the county department of finance. The legal owner and the registered owner shall be notified in writing at the address on record with the department of transportation or with the county department of finance by registered or certified mail of the location of the vehicle, together with a description of the vehicle, within a reasonable period not to exceed twenty days following the tow. The notice shall state:

- (1) The maximum towing charges and fees allowed by law;
- (2) The telephone number of the consumer information service of the department of commerce and consumer affairs; and
- (3) That if the vehicle is not recovered within thirty days after the mailing of the notice, the vehicle shall be deemed abandoned and will be sold or disposed of as junk.

Where the owners have not been so notified, then the owner may recover the owner's car from the towing company without paying tow or storage fees; provided that the notice need not be sent to a legal or registered owner or any person with an unrecorded interest in the vehicle whose name or address cannot be determined. Absent evidence to the contrary, a notice shall be deemed received by the legal or registered owner five days after the mailing. A person who has been charged in excess of the charges permitted under this section may sue for damages sustained[,] and, if the judgment is for the plaintiff, the court shall award the plaintiff a sum not to exceed the amount of [such] the damages and reasonable attorney's fees together with the cost of suit.

(c) When a vehicle is recovered by the owner before written notice is sent by registered or certified mail, the towing company shall provide the owner with a receipt stating:

- (1) The maximum towing charges and fees allowed by law; and
- (2) The telephone number of the consumer information service of the department of commerce and consumer affairs.

(d) When a vehicle is not recovered within thirty days after the mailing of the notice, it shall be deemed abandoned and the owner of the towing company, or the owner of the towing company's authorized representative, after one public advertisement in a newspaper of general circulation in the State, may negotiate a sale of the vehicle or dispose of it as junk.

(e) The authorized seller of the vehicle shall be entitled to the proceeds of the sale to the extent that compensation is due the authorized seller for services rendered in respect to the vehicle, including reasonable and customary charges for towing, handling, storage, and the cost of the notices and advertising required by this part. Any remaining balance shall be forwarded to the legal or registered owner of the vehicle if the legal or registered owner can be found. If the legal or registered owner cannot be found, the balance shall be deposited with the director of finance of the State and shall be paid out to the legal or registered owner of the vehicle if a proper claim is filed therefor within one year from the execution of the sales agreement. If no claim is made within the year allowed, the money shall become a state realization.

(f) The transfer of title and interest by sale under this part is a transfer by operation of law; provided that if the certificate of ownership or registration is unavailable, a bill of sale executed by an authorized seller is satisfactory evidence authorizing the transfer of the title or interest.

(g) Each county by ordinance may enact additional restrictions to this section or may enact criminal sanctions in this area as required.

(h) For the purposes of this section, tow operators shall accommodate payment by the owner for charges under subsection (b) by cash and by either credit card or automated teller machine located on the premises.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval; provided that the amendment set forth in Section 1 shall take effect on September 1, 1998, and shall be repealed on July 1, 2000.

(Approved June 24, 1998.)

## ACT 139

S.B. NO. 2759

A Bill for an Act Relating to the Traffic Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 291C, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§291C- Motor vehicle towing and storage; settlement.** (a) Notwithstanding any other provision of this chapter, any vehicle identified for removal pursuant to any county ordinance ordering removal of motor vehicles by any county police department for traffic violations, including a vehicle which constitutes an obstruction or hazard to traffic, may be towed away at the expense of the registered owner of the vehicle, as provided by this section.

(b) The towing company shall determine the name of the lien holder and the registered owner of the vehicle from the department of transportation or the county department of finance. The lien holder and the registered owner shall be notified by the towing company in writing at the address on record with the department of transportation or with the county department of finance by registered or certified mail of the location of the vehicle, together with a description of the vehicle, within a reasonable period not to exceed twenty days following the tow. The notice shall state:

- (1) The maximum towing charges and fees allowed by law;
- (2) The telephone number of the county finance department that arranged for or authorized the tow; and
- (3) That if the vehicle is not recovered within thirty days after the mailing of the notice, the vehicle shall be deemed abandoned and will be sold or disposed of as junk.

When the vehicle is recovered after the tow by the registered owner or lien holder, the party recovering the vehicle shall pay the tow and storage charges which shall not exceed the charges as provided by section 290-11(b) or the rates agreed upon with the respective counties, whichever is lower, except that tow operators may charge additional reasonable amounts for excavating vehicles from off-road loca-

tions; provided that if the notice required by this section was not sent within twenty days after the tow, neither the registered owner nor the lien holder shall be required to pay the tow and storage charges. No notice shall be sent to a legal or registered owner or any person with any unrecorded interest in the vehicle whose name or address cannot be determined. A person who has been charged in excess of the charges permitted under this section may sue for damages sustained, and, if the judgment is for the plaintiff, the court shall award the plaintiff a sum not to exceed the amount of these damages and reasonable attorney's fees together with the cost of the suit.

(c) When a vehicle is recovered by the owner or lien holder before written notice is sent by registered or certified mail, the towing company shall provide the owner or lien holder with a receipt stating the maximum towing charges and fees allowed by law and the telephone number of the county finance department that arranged for or authorized the tow.

(d) When a vehicle is not recovered within thirty days after the mailing of the notice, it shall be deemed abandoned and the owner of the towing company, or the owner of the towing company's authorized representative, after one statewide public notice as required in section 1- , may negotiate a sale of the vehicle or dispose of it as junk.

(e) The authorized seller of the vehicle shall be entitled to the proceeds of the sale to the extent that compensation is due the authorized seller for services rendered in respect to the vehicle, including reasonable and customary charges for towing, handling, storage, and the cost of the notices and advertising required by this part. Any remaining balance shall be forwarded to the registered owner or lien holder of the vehicle if the registered owner or lien holder is found. If the registered owner or lien holder cannot be found, the balance shall be deposited with the director of finance of the State and shall be paid out to the registered owner or lien holder of the vehicle if a proper claim is filed therefor within one year from the execution of the sales agreement. The lien holder shall have first priority to the funds to the extent of the lien holder's claim. If no claim is made within the year allowed, the money shall escheat to the State.

(f) The transfer of title and interest by sale under this section is a transfer by operation of law; provided that if the certificate of ownership or registration is unavailable, a bill of sale executed by an authorized seller is satisfactory evidence authorizing the transfer of the title or interest.”

SECTION 2. The revisor of statutes shall substitute the appropriate section number for section 1- in section 291C- (d) in section 1 of this Act after codification of Act 2, Session Laws of Hawaii 1998.

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved June 24, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 140

H.B. NO. 503

A Bill for an Act Relating to Correctional Industries.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 354D-6, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The director or a designated representative [shall] may consult with the [directors of the various state agencies, including the department of transportation, the department of accounting and general services, and the [department of business, economic development, and tourism,]] administrator of the state procurement office to identify goods or services which the correctional industries program may produce or provide[. Unless a specific exemption is granted by the administrator,] to any state agency. The administrator of the state procurement office shall provide a list of goods and services available from the correctional industries program and any state agency may purchase these goods and services [shall be provided by] from the correctional industries program.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 1998.

(Approved July 2, 1998.)

## ACT 141

H.B. NO. 1533

A Bill for an Act Relating to State Funds.

*Be It Enacted by the Legislature of the State of Hawaii:*

## PART I

SECTION 1. The legislature determines that there is in the agricultural loan revolving fund at least \$2,000,000 in excess of the requirements of the fund. On July 1, 1998, the director of finance is authorized to transfer from the agricultural loan revolving fund to the general fund the sum of \$2,000,000 or so much thereof as may be necessary for fiscal year 1998-1999.

SECTION 2. The legislature determines that there is in the Hawaii capital loan revolving fund at least \$1,000,000 in excess of the requirements of the fund. On July 1, 1998, the director of finance is authorized to transfer from the Hawaii capital loan revolving fund to the general fund the sum of \$1,000,000 or so much thereof as may be necessary for fiscal year 1998-1999.

SECTION 3. The legislature determines that there is in the dwelling unit revolving fund at least \$6,400,000 in excess of the requirements of the fund. On July 1, 1998, the director of finance is authorized to transfer from the dwelling unit revolving fund to the general fund the sum of \$6,400,000 or so much thereof as may be necessary for fiscal year 1998-1999.

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SECTION 4. The legislature determines that there is in the homes revolving fund at least \$42,500,000 in excess of the requirements of the fund. On July 1, 1998, the director of finance is authorized to transfer from the homes revolving fund to the general fund the sum of \$42,500,000 or so much thereof as may be necessary for fiscal year 1998-1999.

SECTION 5. The legislature determines that there is in the industrial park special fund at least \$3,000,000 in excess of the requirements of the fund. On July 1, 1998, the director of finance is authorized to transfer from the industrial park special fund to the general fund the sum of \$3,000,000 or so much thereof as may be necessary for fiscal year 1998-1999.

SECTION 6. The legislature determines that there is in the state parking revolving fund at least \$500,000 in excess of the requirements of the fund. On July 1, 1998, the director of finance is authorized to transfer from the state parking revolving fund to the general fund the sum of \$500,000 or so much thereof as may be necessary for fiscal year 1998-1999.

SECTION 7. The legislature determines that there is in the special land and development fund at least \$4,730,000 in excess of the requirements of the fund. On July 1, 1998, the director of finance is authorized to transfer from the special land and development fund to the general fund the sum of \$4,730,000 or so much thereof as may be necessary for fiscal year 1998-1999.

**PART II**

SECTION 8. Section 128D-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is created within the state treasury an environmental response revolving fund, which shall consist of moneys appropriated to the fund by the legislature, moneys paid to the fund as a result of departmental compliance proceedings, moneys paid to the fund pursuant to court-ordered awards or judgments, moneys paid to the fund in court-approved or out-of-court settlements, all interest attributable to investment of money deposited in the fund, moneys generated by the environmental response tax established in section 243-3.5, and moneys allotted to the fund from other sources; provided that when the total balance of the fund exceeds [\$7,000,000,] ~~\$20,000,000~~, the department of health shall notify the department of taxation of this fact in writing within ten days. The department of taxation then shall notify all distributors liable for collecting the tax imposed by section 243-3.5 of this fact in writing, and the imposition of the tax shall be discontinued beginning the first day of the second month following the month in which notice is given to the department of taxation. If the total balance of the fund thereafter declines to less than \$3,000,000, the department of health shall notify the department of taxation which then shall notify all distributors liable for collecting the tax imposed by section 243-3.5 of this fact in writing, and the imposition of the tax shall be reinstated beginning the first day of the second month following the month in which notice is given to the department of taxation.”

**PART III**

SECTION 9. The purpose of this part is to provide alternative funding for the state identification program through the establishment of a revolving fund for the deposit of all fees received by the attorney general through the processing and



issuance of certificates of identification under chapter 846, part II, Hawaii Revised Statutes.

The Hawaii criminal justice data center is responsible for the issuance of state identification cards, which provide an alternative photo identification for the general public. This program has been consistently cost-effective, as it generates revenue each year that exceeds the budgeted operational costs for the program. By establishing a revolving fund for the fees collected, this program will become self-supporting.

SECTION 10. Section 846-27, Hawaii Revised Statutes, is amended to read as follows:

**“§846-27 Registration and issuance of certificates; fee[.]; revolving fund.** (a) Every person residing or present in the State may be registered, and have issued to the person a certificate of identification, under this part.

(b) Application for the registration shall be made in person by any adult person or minor over the age of fourteen years. In the case of a minor under the age of fourteen years, the application shall be made in the minor’s behalf by the parent, or by another person in loco parentis of such minor who can provide proof of guardianship. In the case of an incompetent person, the application shall be made by the person having the custody or control of or maintaining the incompetent person.

(c) There is established in the state treasury a revolving fund to be known as the state identification revolving fund. The fund shall consist of all fees assessed for the processing and issuance of certificates of identification under this part. The fund shall be administered by the attorney general for the purposes of this part.

(d) The fund shall be held separate and apart from all other moneys, funds, and accounts in the state treasury. Interest and investment earnings credited to the assets of the fund shall become a part of the fund. Any balance remaining in the fund at the end of any fiscal year shall be carried forward in the fund for the next fiscal year.”

SECTION 11. Section 846-37, Hawaii Revised Statutes, is amended to read as follows:

**“§846-37 Disposition of income.** [All] Except as provided in section 846-27, all other moneys received by the department of the attorney general under this part shall be deposited with the director of finance to the credit of the general fund.”

SECTION 12. There is appropriated out of the state identification revolving fund the sum of \$450,000 for fiscal year 1998-1999, or so much thereof as may be necessary for the operation and improvement of the state civil identification program established under part II of chapter 846, Hawaii Revised Statutes.

SECTION 13. The sum appropriated shall be expended by the department of the attorney general for the purposes of this Act.

#### PART IV

SECTION 14. There is appropriated from the compliance resolution fund, commerce and consumer affairs (CCA 105,) the sum of \$87,670 for fiscal year 1998-1999. This sum shall be expended by the professional and vocational licensing division of the department of commerce and consumer affairs for an administrative assistant position, a secretary position, and other current expenses.

PART V

SECTION 15. Upon the effective date of this Act, the public employees health fund shall return the sum of \$31,315,640, representing the State's share of insurance carrier refunds, rate credits, and any interest accrued thereon, to the state general fund, and \$12,057,821, representing the counties' share of insurance carrier refunds, rate credits, and any interest accrued thereon, to the appropriate county general fund.

PART VI

SECTION 16. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 17. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 18. This Act shall take effect on July 1, 1998; except that section 8 of this Act shall take effect upon its approval.

(Approved July 2, 1998.)

ACT 142

H.B. NO. 1624

A Bill for an Act Relating to Boiler and Elevator Safety Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 397, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§397- Boiler and elevator safety revolving fund.** There is established a revolving fund for use by the department in providing inspection services for boilers, pressure systems, or elevators and kindred equipment. Moneys in the fund may be expended for materials, salaries, equipment, training, and other costs related to providing inspection services. Moneys derived from the inspection services provided under section 397-5 and from other sources shall be deposited in the fund. The balance of moneys in the fund shall not exceed \$1,200,000; provided that moneys in excess of \$1,200,000 shall be deposited into the state general fund.”

SECTION 2. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

**“§36-27 Transfers from special funds for central service expenses.** Except as provided in this section, and notwithstanding any other law to the contrary, from time to time the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special summer school and intersession fund under section 302A-1310;
- (2) School cafeteria special funds of the community colleges and the department of education;

- (3) Special funds of the student housing, summer session, college of continuing education and community service, campus center, Kau‘iokahaloa Iki faculty housing development, and bookstores of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center capital special fund under section 206X-10.5 and the convention center operations special fund under section 206X-10.6;
- (6) Special funds established by section 206E-6;
- (7) Housing loan program revenue bond special fund;
- (8) Housing project bond special fund;
- (9) Aloha Tower fund created by section 206J-17;
- (10) Domestic violence prevention special fund under section 321-1.3;
- (11) Spouse and child abuse special account under section 346-7.5;
- (12) Spouse and child abuse special account under section 601-3.6;
- (13) Funds of the employees’ retirement system created by section 88-109;
- (14) Unemployment compensation fund established under section 383-121;
- (15) Hawaii hurricane relief fund established under chapter 431P;
- (16) The University of Hawaii tuition and fees special fund; [and]
- (17) Division of community hospitals’ special funds; and
- (18) Boiler and elevator safety revolving fund established under section 397-;

shall deduct five per cent of all receipts of all other special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year.”

SECTION 3. Section 397-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Administration.

- (1) The department [of labor and industrial relations] shall establish a boiler and elevator inspection bureau for the enforcement of the rules [and regulations promulgated by the authority of] adopted under this chapter and such other duties as assigned.
- (2) The department shall:
  - (A) Implement and enforce the requirements of this chapter.
  - (B) Keep adequate and complete records of the type, size, location, identification data, and inspection findings for boilers, pressure systems, amusement rides, and elevators and kindred equipment required to be inspected pursuant to this chapter.
- (3) The department shall formulate definitions and adopt and enforce standards[,] and rules [and regulations] pursuant to chapter 91 as may be necessary for carrying out [the purposes and provisions of] this chapter. Definitions[,] and rules [and regulations] adopted in accordance with chapter 91 under the authority of chapter 396, prior to the adoption of this chapter that pertain to boilers, pressure systems, amusement rides, and elevators and kindred equipment required to be

inspected pursuant to this chapter, shall be continued in force under the authority of this chapter.

- (4) Emergency temporary standards may be promulgated without conforming to chapter 91 and without hearings to take immediate effect upon publication of a notice of such emergency temporary standards in a newspaper of general circulation in the State or upon such other date as may be specified in the notice. An emergency temporary standard may be adopted, if the director determines:
  - (A) That the public or individuals are exposed to grave danger from exposure to hazardous conditions or circumstances; and
  - (B) That such emergency standard is necessary to protect the public or individuals from such danger.

Emergency temporary standards shall be effective until superseded by a standard [promulgated in accordance with the procedures set forth in] adopted under chapter 91, but in any case shall be effective no longer than six months.

- (5) Variances from standards [promulgated] adopted under this chapter may be granted upon application of an owner, user, contractor, or vendor. Application for variances must correspond to procedures set forth in the rules [and regulations] adopted pursuant to this chapter. The director may issue an order for variance, if the director determines that the proponent of the variance has demonstrated that the conditions, practices, means, methods, operations, or processes used or proposed to be used will provide substantially equivalent safety as that provided by the standards.

- (6) Permits.

- (A) The department shall not issue a “permit to operate” regarding any boiler, pressure system, or elevator and kindred equipment [unless they are found to be safe by a qualified inspector.] if found to be safe in accordance with rules adopted pursuant to chapter 91.
- (B) The department may immediately revoke any “permit to operate” any boiler, pressure system, or elevator and kindred equipment found to be in an unsafe condition or where a user, owner, or contractor ignores prior department orders to correct specific defects or hazards and continues to use or operate the above mentioned apparatus without abating the hazards or defects.
- (C) The department shall reissue a “permit to operate” to any user, owner, or contractor who demonstrates that the user, owner, or contractor is proceeding in good faith to abate all nonconforming conditions mentioned in department orders and the boilers, pressure systems, and elevators and kindred equipment are safe to operate.
- (D) The department shall establish criteria for the periodic reinspection and renewal of the permits to operate, and may provide for the issuance of temporary permits to operate while any noncomplying boiler, pressure system, and elevator and kindred equipment are being brought into full compliance with the applicable standards and [regulations promulgated] rules adopted pursuant to this chapter[.]; provided that effective July 1, 2000, the period between an initial safety inspection of a boiler, pressure system, or elevator and kindred equipment, or the inspection used as the basis for the issuance of a permit to operate,

and any subsequent inspection, shall not exceed seven months nor be less than five months.

- (7) Certificates of inspection shall be issued for amusement rides after each inspection, if the rides are found to be safe for use.
- (8) No boiler, pressure system, amusement ride,<sup>1</sup> or elevator and kindred equipment which are required to be inspected by this chapter or by any rule [or regulation promulgated] adopted pursuant to this chapter shall be operated, except as necessary to install, repair, or test, unless a permit to operate or certificate of inspection has been authorized or issued by this department and remains valid.
- (9) The department may, upon the application of any owner or user or other person affected thereby, grant such time as may reasonably be necessary for compliance with any order. Any person affected by an order may for cause petition the department for an extension of time.”

SECTION 4. Section 397-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) All fees received by the department pursuant to this section shall be paid into the [general fund of the State.] boiler and elevator safety revolving fund established under section 397- .”

SECTION 5. The number of inspectors under chapter 397, Hawaii Revised Statutes, shall be maintained by the department of labor and industrial relations at the same level as of the effective date of this Act until repeal of this Act.

SECTION 6. There is appropriated out of the boiler and elevator safety revolving fund the sum of \$158,000, or so much thereof as may be necessary for fiscal year 1998-1999, to fund the current nine elevator inspector positions.

SECTION 7. The sum appropriated by this Act shall be expended by the department of labor and industrial relations for the purposes<sup>2</sup> boiler and elevator safety revolving fund.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>3</sup>

SECTION 9. This Act shall take effect upon its approval and shall be repealed on July 31, 2003, except that section 3 of this Act shall not be repealed; provided that sections 36-27 and 397-5(b), Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day before the approval of this Act.

(Approved July 2, 1998.)

#### Notes

1. Comma should be underscored.
2. So in original.
3. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to the Licensing of Certain Sellers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 237-9, Hawaii Revised Statutes, is amended to read as follows:

“§237-9 Licenses; penalty. (a) [Any] Except as provided in this section, any person who [shall have] has a gross income or gross proceeds of sales or value of products upon which a privilege tax is imposed by this chapter, as a condition precedent to engaging or continuing in such business, shall in writing apply for and obtain from the department of taxation, upon a one-time payment of the sum of \$20, a license to engage in and to conduct such business, upon condition that the person shall pay the taxes accruing to the State under this chapter, and the person shall thereby be duly licensed to engage in and conduct the business. Any person licensed or holding a license under this chapter before January 1, 1990, shall pay a one-time license renewal fee of \$20 on or before January 31, 1990, as a condition precedent to engaging or continuing in business. The license shall not be transferable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. The license may be inspected and examined, and shall at all times be conspicuously displayed at the place for which it is issued.

(b) Licenses and applications therefor shall be in such form as the department shall prescribe, except that where the licensee is engaged in two or more forms of business of different classification, the license shall so state on its face. The license provided for by this section shall be effective until canceled in writing. Any application for the reissuance of a previously canceled license identification number after December 31, 1989, shall be regarded as a new license application and subject to the payment of the one-time license fee of \$20. The director may revoke or cancel any license issued under this chapter for cause as provided by rules adopted pursuant to chapter 91.

(c) If the license fee is paid, the department shall not refuse to issue a license or revoke or cancel a license for the exercise of a privilege protected by the First Amendment of the Constitution of the United States, or for the carrying on of interstate or foreign commerce, or for any privilege the exercise of which, under the Constitution and laws of the United States, cannot be restrained on account of nonpayment of taxes, nor shall section 237-46 be invoked to restrain the exercise of such a privilege, or the carrying on of such commerce.

(d) The director may permit a person engaged in network marketing, multi-level marketing, or other similar business to obtain the license required under this section for purposes of becoming a tax collection agent on behalf of its direct sellers. The tax collection agent shall report, collect, and pay over the taxes due under this chapter and chapter 238 on behalf of its direct sellers who are covered by the tax collection agreement. The tax collection agent's direct sellers shall be deemed to be licensed under this chapter; provided that the licensure shall apply solely to the business activity conducted directly through the marketing arrangement. Under this section, a tax collection agent shall:

- (1) Notify all of its direct sellers making sales in the State that it has been designated to collect, report, and pay over the tax imposed by this chapter and chapter 238 on their behalf on the business activity conducted through the marketing arrangement;

- (2) If required by the director as a condition of obtaining the license, furnish with the annual return, a list (including identification numbers) of all direct sellers for the taxable year who have been provided (by the tax collection agent) information returns required under section 6041A of the Internal Revenue Code of 1986, as amended, and any other information that is relevant to ensure proper payment of taxes due under this section; and
- (3) Be personally liable for the taxes due and collected under the tax collection agreement if taxes are collected, but not reported or paid, together with penalties and interest as provided by law.

(e) For the purposes of this section:

“Consumer product” shall include tangible consumer products and intangible consumer services.

“Direct seller” means any person who is engaged in the trade or business of selling (or soliciting the sale of) consumer products:

- (1) To any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis, that the director prescribes by rule adopted pursuant to chapter 91, for resale other than in a permanent retail establishment;
- (2) Other than in a permanent retail establishment; provided that:
- (A) Substantially all the remuneration (whether or not paid in cash) for the sale of consumer products is directly related to sales or other output rather than to the number of hours worked; and
- (B) The sales of consumer products by the person are performed pursuant to a written contract that provides that the person will not be treated as an employee with respect to those sales for federal or state tax purposes.

“Direct seller” includes individuals who realize remuneration dependent on the productivity of other individuals in the marketing arrangement.

“Network marketing” or “multi-level marketing” means a marketing arrangement in which consumer products are distributed and sold to or through direct sellers.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon approval.

(Approved July 2, 1998.)

## ACT 144

H.B. NO. 2222

A Bill for an Act Making an Appropriation to Match Federal Funds for Establishment of Manufacturing Extension Programs.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 1998-1999 for the establishment of manufacturing extension programs in Hawaii; provided that no funds shall be made available under this Act unless the department of business, economic development, and tourism provides a dollar-for-dollar match of federal funds for the purpose for which this sum is appropriated.

## ACT 145

SECTION 2. The sum appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 1998.

(Approved July 2, 1998.)

## ACT 145

H.B. NO. 2332

A Bill for an Act Relating to the Traffic Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 291C, Hawaii Revised Statutes, is amended by adding a new section to part XII to be appropriately designated and to read as follows:

“§291C- Waste material from motor vehicles. (a) Notwithstanding sections 291C-131 and 291C-132 to the contrary, a driver of a motor vehicle from which waste material falls onto a highway or roadway shall be responsible for the removal of the fallen waste material. If the driver is unable to remove the waste material from the highway or roadway, or if removal will create a hazardous situation, the driver shall report, without unnecessary delay, the following information to the county police department:

- (1) Description of the fallen waste material;
- (2) Location of the fallen waste material;
- (3) Time of the incident; and
- (4) Any other pertinent information.

(b) A driver who:

- (1) Knowingly refuses to remove waste material that has fallen from the driver's motor vehicle onto a highway or roadway; and
- (2) Knowingly fails to report the incident, without unnecessary delay, to the county police department, pursuant to subsection (a),

shall be subject to the penalties set forth in section 291C-161.

(c) As used in this section, “waste material” means rubbish, refuse, garbage, trash, tire debris, mufflers, tail pipes, or debris of whatever kind or description. “Waste material” does not include material used by authorized persons in connection with any lawful purpose.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved July 2, 1998.)

### Note

1. Edited pursuant to HRS §23G-16.5.



## ACT 146

H.B. NO. 2355

A Bill for an Act Relating to Criminal Trespass.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 708-814, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of criminal trespass in the second degree if:

- (a) The person knowingly enters or remains unlawfully in or upon premises [which] that are enclosed in a manner designed to exclude intruders or are fenced; or
- (b) The person enters or remains unlawfully in or upon commercial premises after reasonable warning or request to leave by the owner or lessee of the commercial premises or the owner’s or lessee’s authorized agent or police officer; provided that this paragraph shall not apply to any conduct or activity subject to regulation by the National Labor Relations Act.

For purposes of this section, “reasonable warning or request” means a warning or request communicated in writing at any time within a one-year period inclusive of the date the incident occurred, which may contain but is not limited to the following information:

- (i) A warning statement advising the person that the person’s presence is no longer desired on the property for a period of one year from the date of the notice, that a violation of the warning will subject the person to arrest and prosecution for trespassing pursuant to section 708-814(1)(b), and that criminal trespass in the second degree is a petty misdemeanor;
- (ii) The legal name, any aliases, and a photograph, if practicable, or a physical description, including but not limited to sex, racial extraction, age, height, weight, hair color, eye color, or any other distinguishing characteristics, of the person warned;
- (iii) The name of the person giving the warning along with the date and time the warning was given; and
- (iv) The signature of the person giving the warning, the signature of a witness or police officer who was present when the warning was given and, if possible, the signature of the violator.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 2, 1998.)

A Bill for an Act Relating to Controlled Substances.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 329-41, Hawaii Revised Statutes, is amended to read as follows:

**“§329-41 Prohibited acts B—penalties.** (a) It is unlawful for any person:

- (1) Who is subject to part III to distribute or dispense a controlled substance in violation of section 329-38; however, a licensed manufacturer or wholesaler may sell or dispense a controlled substance to a master of a transpacific ship or a person in charge of a transpacific aircraft upon which no physician is regularly employed, for the actual medical needs of persons on board such ship or aircraft when not in port; provided [Schedule] schedule I or II controlled substances shall be sold to the master of such ship or person in charge of such aircraft only in accordance with the provisions set forth in 21 Code of Federal Regulations, sections 1301, 1305, and 1307, adopted pursuant to title 21, United States Code, section 821;
- (2) Who is a registrant to manufacture a controlled substance not authorized by the registrant’s registration or to distribute or dispense a controlled substance not authorized by the registrant’s registration to another registrant or another authorized person;
- (3) To refuse or fail to make[,] available, keep, or furnish any record, notification, order form, prescription, statement, invoice, or information [required under this chapter;] in patient charts relating to the administration, dispensing, or prescribing of controlled substances;
- (4) To refuse any lawful entry into any premises for any inspection authorized by this chapter; [or]
- (5) Knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place for the purpose of using these substances or which is used for keeping or selling them in violation of this chapter or chapter 712, part IV[.]; or
- (6) Who is a practitioner or pharmacist to dispense a controlled substance to any individual not known to the practitioner or pharmacist, without first obtaining proper identification and documenting, by signature on a log book kept by the practitioner or pharmacist, the identity of the individual obtaining the controlled substance. If the individual does not have any form of proper identification, the pharmacist shall verify the validity of the prescription and identity of the patient with the prescriber, or their authorized agent, before dispensing the controlled substance. For the purpose of this section, “proper identification” means identification containing the photograph, printed name, and signature of the individual obtaining the controlled substance.

(b) Any person who violates this section is guilty of a [crime and upon conviction may be imprisoned for not more than five years, fined not more than \$5,000, or both.] class C felony.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 2, 1998.)

## ACT 148

H.B. NO. 2547

A Bill for an Act Relating to Agriculture.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the lease for the existing Oahu slaughterhouse located in Honouliuli will expire in 2004. This slaughterhouse is the only one with United States Department of Agriculture approval facility on Oahu that slaughters cattle, hogs, and sheep. The closure of this slaughterhouse will leave livestock producers without the means to slaughter and process animals. It will also mean the termination of certain livestock operations, loss of jobs and revenues to the State, and the loss of fresh products for Hawaii consumers. Therefore, it is imperative that plans proceed for the construction of a slaughterhouse.

The planned slaughterhouse at Campbell industrial park will include a meat processing plant, and waste treatment plant. It is estimated that construction of the whole facility will lead to the creation of some two hundred sixty to three hundred new jobs relating to the slaughtering and processing of livestock. The construction of a slaughterhouse, meat processing plant, and waste treatment plant will not only help existing livestock operations but will coincide with conditions ripe for industry expansion. The availability of sugar lands coupled with the upswing in cattle prices has created an environment of promising growth.

The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare of the State.

SECTION 2. Pursuant to part IV, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue in one or more series special purpose revenue bonds in a total amount not to exceed \$10,000,000, for the purpose of assisting Palama Meat Company in financing the establishment of a slaughterhouse including a meat processing plant, and waste processing plant on Oahu. The legislature finds and determines that the planning and construction of a slaughterhouse including a meat processing plant, and waste treatment plant constitute a project as defined in part IV, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to a processing enterprise.

SECTION 3. The special purpose revenue bonds issued under this Act shall be issued pursuant to part IV, chapter 39A, Hawaii Revised Statutes, relating to the authority to issue special purpose revenue bonds to assist processing enterprises.

SECTION 4. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2003.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 2, 1998.)

A Bill for an Act Relating to Crime.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the level of prostitution in Waikiki has become intolerable. One is unable to walk down the streets without repeatedly being accosted for purposes of solicitation. Moreover, the legislature finds that a high level of prostitution is nearly always followed by an increase in other criminal activities relating to theft, robbery, assault, and drugs. Such activity is abhorrent to residents and visitors alike and is driving both from one of the State's prime attractions. Efforts by the Honolulu police department to crack down on prostitution and other criminal activity in the Waikiki area have had limited effect. The legislature further finds and declares that more stringent measures are necessary to preserve Waikiki as a prime attraction and to protect the health, safety, and welfare of residents and visitors to Waikiki.

Accordingly, the purpose of this Act is to provide for increased penalties for prostitution activities in Waikiki. As a mandatory condition of probation and bail, defendants must observe geographic restrictions prohibiting them from entering or walking on the public streets or sidewalks of Waikiki during the hours from 6 p.m. to 6 a.m. If a defendant resides in Waikiki and chooses to remain in Waikiki during the prohibited hours, the defendant must therefore stay off the streets and sidewalks during those hours. Although the restriction covers a large physical space, it is narrowly tailored to cover only the hours most closely associated with the crime. Additionally, the restriction is sufficiently definite to provide the average person with adequate notice of what behavior is prohibited.

SECTION 2. Chapter 712, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§712- Street solicitation of prostitution.** (1) It shall be unlawful for any person within the boundaries of Waikiki and while on a public street or sidewalk to offer or agree to engage in sexual conduct with another person in return for a fee.

(2) Notwithstanding any law to the contrary, any person violating this section shall be guilty of a petty misdemeanor and shall be sentenced to a mandatory minimum term of thirty days imprisonment. The term of imprisonment shall be imposed immediately, regardless of whether the defendant appeals the conviction, except as provided in subsection (3).

(3) As an option to the mandatory minimum term of thirty days imprisonment, if the court finds the option is warranted based upon the defendant's record, the court may place the defendant on probation for a period not to exceed one year, subject to the mandatory condition that the defendant observe geographic restrictions that prohibit the defendant from entering or walking along the public streets or sidewalks of Waikiki during the hours from 6 p.m. to 6 a.m. Upon any violation of the geographic restrictions by the defendant, the court, after hearing, shall revoke the defendant's probation and immediately impose the mandatory minimum thirty-day term of imprisonment.

(4) Any person charged under this section may be admitted to bail, pursuant to section 804-4, subject to the mandatory condition that the person observe geographic restrictions that prohibit the defendant from entering or walking along the public streets or sidewalks of Waikiki during the hours from 6 p.m. to 6 a.m. Notwithstanding any other provision of law to the contrary, any person who violates

these bail restrictions shall have the person's bail revoked after hearing and shall be imprisoned forthwith.

(5) For purposes of this section:

“Sexual conduct” has the same meaning as in section 712-1200(2).

“Waikiki” means that area of Oahu bounded by the Ala Wai canal, the ocean, and Kapahulu avenue.

(6) This section shall apply to all counties; provided that if a county enacts an ordinance to regulate street solicitation for prostitution, the county ordinance shall supersede this section and no person shall be convicted under this section in that county.’’

SECTION 3. Section 804-4, Hawaii Revised Statutes, is amended to read as follows:

**“§804-4 When a matter of right. (a)** If the charge is for an offense for which bail is allowable under section 804-3, the defendant may be admitted to bail before conviction as a matter of right[.]; provided that bail shall be allowed for any person charged under section 712- only subject to the mandatory condition that the person observe geographic restrictions that prohibit the defendant from entering or walking along the public streets or sidewalks of Waikiki during the hours from 6 p.m. to 6 a.m. The right to bail shall continue after conviction of a misdemeanor, petty misdemeanor, or violation, and release on bail may continue, in the discretion of the court, after conviction of a felony until the final determination of any motion for a new trial, appeal, habeas corpus, or other proceedings [which] that are made, taken, issued, or allowed for the purpose of securing a review of the rulings, verdict, judgment, sentence, or other proceedings of any court or jury in or by which the defendant has been arraigned, tried, convicted, or sentenced; [except that no] provided that:

- (1) No bail shall be allowed after conviction and prior to sentencing in cases where bail was not available under section 804-3, or where bail was denied or revoked before conviction; [and provided further that no]
- (2) No bail shall be allowed pending appeal of a felony conviction where a sentence of imprisonment has been imposed[.]; and
- (3) No bail shall be allowed pending appeal of a conviction for a violation of section 712- , unless the court finds, based on the defendant's record, that the defendant may be admitted to bail subject to the mandatory condition that the person observe geographic restrictions that prohibit the defendant from entering or walking along the public streets or sidewalks of Waikiki during the hours from 6 p.m. to 6 a.m.

Notwithstanding any other provision of law to the contrary, any person who violates these bail restrictions shall have the person's bail revoked after hearing and shall be imprisoned forthwith.

(b) The court shall order that a person who has been found guilty of an offense and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the court finds:

- (1) By clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released; and
- (2) That the appeal is not for purpose of delay and raises a substantial question of law or fact likely to result in reversal or an order for a new trial.

If the court makes [such] these findings, the court shall order the release of the person in accordance with [the provisions of] section 804-7.1. No defendant entitled to bail, whether bailed or not, shall[.] be subject, without the defendant's written

## ACT 150

consent, [be subject] to the operation of any sentence passed upon the defendant, while any proceedings to procure a review of any action of the trial court or jury in the premises are pending and undetermined, except as provided in section 641-14(a)[.] or section 712- .”

SECTION 4. Section 804-5, Hawaii Revised Statutes, is amended to read as follows:

“**§804-5 By whom allowed.** In cases where the punishment for the offense charged may be imprisonment for life not subject to parole, or imprisonment for a term more than ten years with or without fine, a judge or justice of a court of record, including a district judge, shall be competent to admit the accused to bail, in conformity with sections 804-3 to [6.] 804-6. In all other cases, the accused may be so admitted to bail by any judge or justice of a court of record, including a district judge, and in cases, except under section 712- ., where the punishment for the offense charged may not exceed two years’ imprisonment with or without fine, the sheriff, the sheriff’s deputy, the chief of police or any person named by the chief of police, or the sheriff of Kalawao, regardless of the circuit within which the alleged offense was committed, may admit the accused person to bail.”

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 6. If any provision of this Act or the application of any provision to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to any other person or circumstance shall not be affected by that invalidation.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect upon its approval.

(Approved July 7, 1998.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 150

H.B. NO. 2672

A Bill for an Act Relating to Captive Insurance Companies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 431, Article 19, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§431:19- Service providers.** The commissioner shall have the authority to approve service providers to captive insurance companies licensed under this article, including but not limited to captive insurance managers, independent certified public accountants, actuaries, and loss reserve specialists.”

SECTION 2. Section 431:19-101, Hawaii Revised Statutes, is amended by amending the definition of “captive insurance company” to read as follows:

““Captive insurance company” means any pure captive insurance company, risk retention captive insurance company, or association captive insurance company formed or licensed under this article.”

SECTION 3. Section 431:19-102, Hawaii Revised Statutes, is amended to read as follows:

“**§431:19-102 Licensing; authority.** (a) Any captive insurance company, when permitted by its articles of association or charter, may apply to the commissioner for a license to do any and all insurance set forth in subsection (h); provided that:

- (1) No pure captive insurance company may insure any risks other than those of its parent and affiliated companies;
- (2) No association captive insurance company may insure any risks other than those of the member organizations of its association, and their affiliated companies;
- [(3) No risk retention captive insurance company may insure any risks other than those of the insureds that comprise the risk retention group;
- (4)] (3) No captive insurance company may provide personal motor vehicle or homeowner’s insurance coverage or any component thereof[;], other than as employee benefits for the employees of a parent, association, or its members, and their respective affiliated companies; and
- [(5)] (4) No captive insurance company may accept or cede reinsurance except as provided in section 431:19-111.

(b) No captive insurance company shall do any insurance business in this State unless:

- (1) It first obtains from the commissioner a license authorizing it to do insurance business in this State;
- (2) Its board of directors holds at least one meeting each year in this State;
- (3) It maintains its principal place of business in this State; and
- (4) It appoints a resident agent to accept service of process and to otherwise act on its behalf in this State. Whenever the agent cannot, with reasonable diligence, be found at the registered office of the captive insurance company, the commissioner shall be an agent of [such] the captive insurance company upon whom any process, notice, or demand may be served.

(c) Before receiving a license, a captive insurance company shall file with the commissioner a certified copy of its charter and bylaws, a statement under oath of its president and secretary showing its financial condition, and any other statements or documents required by the commissioner.

(d) In addition to the information required by subsection (c), each applicant captive insurance company shall file with the commissioner evidence of the following:

- (1) The amount and liquidity of its assets relative to the risks to be assumed;
- (2) The adequacy of the expertise, experience, and character of the person or persons who will manage it;
- (3) The overall soundness of its plan of operation;
- (4) The adequacy of the loss prevention programs of its parent or member organizations as applicable; and

- (5) Any other factors deemed relevant by the commissioner in ascertaining whether the proposed captive insurance company will be able to meet its policy obligations.

(e) Each captive insurance company shall pay to the commissioner a nonrefundable fee of \$1,000 for examining, investigating, and processing its application for license. In addition, it shall pay a license fee for the year of registration and a renewal fee for each year thereafter of \$300.

(f) The commissioner shall establish a list of advisors to assist with the review of captive applications. The commissioner shall appoint one advisor from the list to review a specific application. The advisor's fee, to be paid by the captive applicant, shall be a reasonable fee authorized by the commissioner pursuant to section 431:19-114.

(g) If the commissioner is satisfied that the documents and statements filed by the captive insurance company comply with this article, the commissioner may grant a license authorizing it to do insurance business in this State until April 1 thereafter, which license may be renewed.

(h) A captive insurance company may engage in the business of any of the following types of insurance:

- (1) All casualty insurance;
- (2) Marine and transportation insurance;
- (3) Marine protection and indemnity insurance, which includes insurance against, or against legal liability of the insured for loss, damage, or expense arising out of or incident to, the ownership, operation, chartering, maintenance, use, repair, or construction of a vessel, craft, or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness, death, or for loss of or damage to the property of another person;
- (4) Wet marine and transportation insurance, which is that part of marine and transportation insurance that includes only:
  - (A) Insurance upon vessels, crafts, hulls, and of interests therein or with relation thereto;
  - (B) Insurance of marine builder's risks, marine war risks and contracts, or marine protection and indemnity insurance;
  - (C) Insurance of freights and disbursements pertaining to a subject of insurance; and
  - (D) Insurance of personal property and interests therein, in the course of exportation from or importation into any country, and in the course of transportation coastwise or on inland waters, including transportation by land, water, or air from point of origin to final destination, with respect to, appertaining to, or in connection with any and all risks or perils of navigation, transit, or transportation, and while being prepared for and while awaiting shipment, and during delays, storage, transshipment, or reshipment incident thereto;
- (5) Property insurance;
- (6) Surety insurance;
- (7) Title insurance;[and]
- (8) Credit life insurance and credit disability insurance offered as part of, or relating directly to the business or operations of its parent or affiliated companies[.]; and
- (9) Other lines of insurance that the commissioner may allow.

(i) No risk retention captive insurance company may insure any risks other than those allowed under chapter 431K.’’



SECTION 4. Section 431:19-104, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No pure captive insurance company [or], association captive insurance company, or risk retention captive insurance company incorporated as a stock insurer shall be issued a license unless it shall possess and thereafter maintain unimpaired paid-in capital of an amount established and deemed appropriate by the commissioner. The amount for pure captive insurance companies may differ from the amount for association captive insurance companies[.] and risk retention captive insurance companies.”

SECTION 5. Section 431:19-105, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No captive insurance company shall be issued a license unless it shall possess and thereafter maintain a free surplus of an amount established and deemed appropriate by the commissioner. The amount for pure captive insurance companies may differ from the amount for association captive insurance companies[.] and risk retention captive insurance companies. The amount for association captive insurance companies and risk retention captive insurance companies incorporated as stock insurers may differ from the amount for association captive [insurers incorporated] insurance companies or risk retention captive insurance companies formed as mutual or reciprocal insurers.”

SECTION 6. Section 431:19-115, Hawaii Revised Statutes, is amended to read as follows:

“**§431:19-115 Laws applicable.** (a) No insurance laws of this State other than those contained in this article, or contained in specific references contained in this section or article, shall apply to pure captive insurance companies[.], association captive insurance companies, and risk retention captive insurance companies.

In addition to this article, article 1, article 2, part III of article 3, article 4A, parts I and II of article 5, article 6, article 11, and article 15 of this chapter[, and chapter 431K] shall apply to association captive insurance companies[, including] and risk retention captive insurance companies, unless these other laws are inconsistent with this article[.] or the commissioner by rule, regulation, or order determines, on a case by case basis that these other laws should not apply thereto.

In addition to this article and the articles or portions thereof referenced in this section, chapter 431K shall apply to risk retention captive insurance companies licensed under this article.

(b) The application of the foregoing provisions shall not diminish the commissioner’s authority for exemption as may be contained therein or as may be deemed appropriate under the circumstances.

[(b)] In addition, the commissioner may adopt rules pursuant to chapter 91 as the commissioner deems necessary in connection with the financial oversight and regulation of association captive insurance companies, including risk retention captive insurance companies.”

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect upon its approval.

(Approved July 7, 1998.)

## Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 151

H.B. NO. 2803

A Bill for an Act Relating to the Employees' Retirement System.

*Be It Enacted by the Legislature of the State of Hawaii:*

## PART I.

SECTION 1. Section 88-122, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The actuarial valuations made for years ending June 30, [1994,] 1996, to June 30, 2000, shall be based on an eight per cent investment yield rate, [assumed salary increases of four per cent,] a variable salary growth assumption rate, and tables and factors adopted by the board or legislature for actuarial valuations of the system, subject to recommendations made by the actuary appointed under section 88-30. The salary growth assumption used in each annual actuarial valuation shall be determined separately for each of the following groups:

- (1) Teachers;
- (2) Police officers, firefighters, and corrections officers; and
- (3) All other employees.

For paragraphs (1), (2), and (3), the salary growth assumption shall be the arithmetic average of the compensation increases experienced by continuing active members, as measured in the data received for the valuation being performed and the two immediately preceding valuations.”

## PART II.

SECTION 2. Section 76-26, Hawaii Revised Statutes, is amended to read as follows:

“**§76-26 Reemployment of retirees for [service connected occupational service-connected disability.** Any former employee who has been retired for [service connected occupational] a service-connected disability but who is not totally and permanently incapacitated from performing service shall be reemployed in those classes for which the employee requests reemployment and for which the employee meets minimum qualification requirements. The appointment shall not be subject to competitive examination. The order of certification when more than one person is eligible for certification for a particular class shall be fixed by rule.”

SECTION 3. Section 87-6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

- “(c) Notwithstanding any other law to the contrary:
- (1) The beneficiary of an employee who is killed in the performance of duty;
  - (2) An employee-beneficiary who retired after June 30, 1984, due to a disability as defined in sections [88-77,] 88-79[,] and 88-285;
  - (3) An employee-beneficiary who retired before July 1, 1984;
  - (4) An employee-beneficiary who:

- (A) Was hired before July 1, 1996;
  - (B) Retired after June 30, 1984; and
  - (C) Who had ten years or more of credited service, excluding sick leave; and
- (5) An employee-beneficiary who was hired after June 30, 1996, and who retired with twenty-five or more years of credited service, excluding sick leave;

or upon death their beneficiary, including employees who retired prior to the establishing of the fund and their beneficiaries, or the beneficiary of any employee-beneficiary, as described in section 87-1(6) shall not be required to make any contribution to the fund. The monthly contribution of the persons identified in this subsection shall be financed by the State through the department of budget and finance and the several counties through their respective departments of finance for each of their respective employee-beneficiaries.”

SECTION 4. Section 88-61, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The membership of an elective officer or judge in the system may be terminated upon election of the member to retire [if made within six months after the date when] whenever the allowance for such member reaches [75] seventy-five per cent of the member’s average final compensation [or within six months after May 24, 1971, if the member has already reached such limitation and the]. The member’s right to receive the retirement allowance prescribed in section 88-74 after the member’s future separation from service as provided in section 88-73 shall vest on the date of the election. Upon the date of the election, the member shall be entitled to receive the portion of the accumulated contributions, if any, which would be required to be returned to the member under section 88-74(3)(B) as if the member’s retirement allowance had commenced on that date, and after the date of the election the member shall not be allowed or required to make any future contributions. [No judge shall serve after age 65 who makes an election under this subsection unless said judge is in office and age 65 or over on May 24, 1971.]”

SECTION 5. Section 88-73, Hawaii Revised Statutes, is amended to read as follows:

“**§88-73 Service retirement.** Retirement of a member on a service retirement allowance shall be made by the board of trustees or its designee as follows:

- (1) Any member who has at least five years of credited service and who has attained age fifty-five or any member who has at least twenty-five years of credited service or any member who has at least ten years of credited service, including service as a judge, an elective officer, or the chief clerk, assistant clerk, sergeant at arms, or assistant sergeant at arms of either house of the legislature, may retire upon written application to the board specifying on what date, not less than thirty days nor more than ninety days subsequent to the execution and filing thereof, the member desires to be retired. In the event of the death of a member after the date of the filing of the member’s written application to retire, the designated beneficiary, otherwise the personal representative of the member’s estate, shall receive the allowance under the option selected by the member which would have been payable had the member retired, and the benefits paid to the beneficiary or representative shall be computed as though the member had died on or after the effective date of the member’s retirement[.];

- (2) Any member of the legislature who attains age sixty-five may retire and receive a service retirement allowance although the member continues to fill the elective position[.];
- (3) For the purpose of computing or determining benefits for an elective officer or judge, or any beneficiary of either, the date upon which the elective officer or judge elected to retire, as provided by section 88-61(c), after attaining an allowance of seventy-five per cent of average final compensation, shall be used as the effective date of retirement; provided that the elective officer or judge may continue in active service, but shall not receive a retirement allowance until termination of active service; however, upon leaving active service the elective officer or judge shall receive the retirement allowance provided for in section 88-74, together with the post retirement allowances provided for in section 88-90, which post retirement allowances shall be computed from the date of the election as though the elective officer or judge had left active service on that day[.]; and
- (4) In the case of a class A or B member who also has prior credited service under part VII, total credited service as a class A, class B, and class C member shall be used to determine the eligibility for retirement allowance.”

SECTION 6. Section 88-79, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:

**“§88-79 Service-connected [occupational] disability retirement.** (a) Upon application of a member, or the person appointed by the family court as guardian of an incapacitated member, any member who has been permanently incapacitated for duty as the natural and proximate result of an accident occurring while in the actual performance of duty at some definite time and place, or as the cumulative result of some occupational hazard, through no wilful negligence on the member’s part, may be retired by the board of trustees for service-connected [occupational] disability; provided that:

- (1) In the case of an accident occurring after July 1, 1963, the employer shall file with the board a copy of the employer’s report of the accident submitted to the director of labor and industrial relations;
- (2) An application for retirement is filed with the board within two years of the date of the accident, or the date upon which workers’ compensation benefits cease, whichever is later;
- (3) Certification is made by the head of the agency in which the member is employed, stating the time, place, and conditions of the service performed by the member resulting in the member’s disability and that the disability was not the result of wilful negligence on the part of the member; and
- (4) The medical board certifies that the member is incapacitated for the further performance of duty and that the member’s incapacity is likely to be permanent.”

SECTION 7. Section 88-80, Hawaii Revised Statutes, is amended to read as follows:

**“§88-80 Allowance on retirement for service-connected [occupational] disability.** Upon retirement for service-connected [occupational] disability, a member shall receive [for a period of three years from the date of retirement, an] the amount of the member’s accumulated contributions and a retirement allowance

[computed in the manner prescribed for service-connected total disability.] which shall consist of fifty per cent of the member's average final compensation. [In addition, within this three-year period, the member shall be reimbursed in full for all expenses for all services, drugs and appliances approved by the medical board as being necessary to the treatment and care of the disability, which expenses are not met by the Hawaii public employees health fund. Within the three-year period, the system shall also pay the cost of any physical and vocational rehabilitation services approved by the medical board. After the completion of three years, the annuity being paid shall be continued and the pension shall be thirty-three and one-third per cent of the member's average final compensation; provided if the medical board shall, within the three-year period of time, find and certify the disability pensioner is totally incapacitated for gainful employment, the board shall award a service-connected total disability benefit in which case benefits shall be paid under section 88-78.

Any other provision of this part notwithstanding, a retirant receiving service-connected occupational disability benefits shall continue to receive such benefits irrespective of the retirant's later employment or if the retirant later becomes a member of the system. If such a retirant again becomes a public employee, the retirant's membership status in the system shall be determined as though the retirant were entering public employment for the first time and all benefits related to such new membership shall be accrued and paid without reference to the service-connected occupational disability benefits being paid.]”

SECTION 8. Section 88-82, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) If, in the event of an appeal of a decision of the medical board, retirement benefits are awarded to a member by the board of trustees or court of the appropriate jurisdiction under section 88-75, [88-77,] 88-79, 88-85, 88-284, or 88-285, the member shall be reimbursed reasonable attorney's fees together with any costs payable by the system. If an appeal is had, the attorney's fees or costs shall be subject to the approval of the board of trustees or by the appellate court deciding the appeal.”

SECTION 9. Section 88-83, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Maximum allowance: Upon retirement, any member may elect to receive the maximum retirement allowance to which the member is entitled computed in accordance with the provisions described under section 88-74, 88-76, [88-78,] or 88-80 and in the event of the member's death, there shall be paid to the member's beneficiary, otherwise to the member's estate, the difference between the balance of the member's accumulated contributions at the time of the member's retirement and the retirement allowance paid or payable to the member prior to death.

In lieu of this maximum allowance, the member may elect to receive the member's retirement allowance under any one of the optional plans described below, which shall be actuarially equivalent to the maximum allowance.

Option 1: The member may elect to receive a lesser retirement allowance during the member's lifetime. At the member's retirement, there shall be established an amount of initial insurance which shall be computed on the basis of actuarial factors adopted by the board of trustees. Upon the death of the retirant, any balance remaining in the initial insurance reserve after deducting the retirement allowance paid to the retirant prior to death, shall be paid to the retirant's beneficiary, otherwise

to the retirant's estate. In lieu of the lump sum balance, the beneficiary may elect to receive [payment in one of the following ways: (1) an allowance for life based on the value of the balance; provided that the allowance is not less than [\$10] \$100 per month[; or (2) cash payment in part and a reduced allowance for life based on the value of the remaining balance; provided that the allowance is not less than \$10 per month].

Option 2: The member may elect to receive a lesser retirement allowance during the member's lifetime and have such allowances, including cumulative post retirement, if applicable, continued after the member's death to the member's beneficiary during the lifetime of such person. In the event of death of the beneficiary prior to that of the retirant, all further payments shall cease upon the death of the retirant.

Option 3: The member may elect to receive a lesser retirement allowance during the member's lifetime and have one-half of such allowance, including fifty per cent of all cumulative post retirement allowances, if applicable, continued after the member's death to the member's beneficiary during the lifetime of such person. In the event of death of the beneficiary prior to that of the retirant, all further payments shall cease upon the death of the retirant.

Option 4: The member may elect to receive a lesser retirement allowance during the member's lifetime and provide some other benefit to the member's beneficiary in accordance with the member's own specification; provided that such election shall be certified by the actuary to be the actuarial equivalent of the member's retirement allowance and shall be approved by the board.

Option 5: The member may elect to receive the balance of the member's accumulated contributions at the time of retirement in a lump sum and, during the member's lifetime a retirement allowance equal to the maximum retirement allowance reduced by the actuarial equivalent of these contributions. Upon the death of the retirant, all further payments shall cease. Only a member retiring for service having at least ten years of credited service or for disability may elect this mode of retirement.

To receive benefits, the beneficiary must have been designated by the member in such form and manner as is prescribed by the board.

In the event of the death of the retirant within one year after the date of retirement, the retirant's beneficiary may elect to receive either the death benefits under the mode of retirement selected, or in lieu thereof, such benefits as would have been paid had the retirant died immediately prior to retirement, less any payments which the retirant received.

Any election of a mode of retirement allowance shall be irrevocable."

SECTION 10. Section 88-98, Hawaii Revised Statutes, is amended to read as follows:

**"§88-98 Return to service of a retirant.** Any retirant who returns to employment [after June 30, 1984,] requiring [the retirant's] active membership shall be reenrolled as an active member of the system in the same class from which the retirant originally retired and the retirant's retirement allowance shall [thereupon] be suspended. [At such time as the retirant again retires, the retirant's retirement allowance shall consist of:]

(1) If the retirant [has less] returns to service before July 1, 1998, and again retires, the retirant's retirement allowance shall consist of:

(A) For members with fewer than three years of credited service during the [retirant's] member's period of reemployment, the allowance to which the [retirant] member was entitled under the mode of retirement [the retirant] selected when the [retirant]

member previously retired and which was suspended; plus, for the [retirant's] period of service during the [retirant's] member's reemployment, the allowance to which the [retirant] member is entitled for [such] that service based on the mode of retirement initially selected and computed for the [retirant's] member's age, average final compensation, and other factors in accordance with the benefit formula in existence at the time of the [retirant's final] member's latest retirement[.]; or

(2) If the retirant has]

(B) For members with three or more years of credited service during the [retirant's] member's period of reemployment, the allowance computed as if the [retirant] member were retiring for the first time; provided that in no event shall [such] the allowance be less than the amount determined in accordance with [[paragraph] (1) hereof.] subparagraph (A);

and

(2) If the retirant returns to service after June 30, 1998, and again retires, the retirant's retirement allowance shall be computed in accordance with paragraph (1)(A), regardless of the number of years of service in the reemployment period.

The board of trustees shall adopt such rules as may be required to administer the purposes of this section.”

SECTION 11. Section 88-136, Hawaii Revised Statutes, is amended to read as follows:

“**§88-136 Accidental disability benefit.** Any member who has been incapacitated for duty by accident, act of war, or otherwise, occurring while the member is not in the service of the State or any county, shall not by reason of such incapacity be entitled to the accidental disability benefit provided for by [sections 88-77 and] section 88-79, but in such event if the member can qualify for an ordinary disability retirement benefit as hereinabove provided, the member shall receive the ordinary disability retirement benefit.”

SECTION 12. Section 88-251, Hawaii Revised Statutes, is amended to read as follows:

“**§88-251 Applicability.** The following provisions of part II of this chapter shall apply to this part:

- (1) Subpart A, except the definitions provided in section 88-21, unless expressly adopted in section 88-261;
- (2) Subpart B, except sections 88-45, 88-46, 88-48, and 88-52 to 88-62;
- (3) Subpart C, except sections 88-71 to [88-78,] 88-76, 88-80, 88-81, 88-83 to 88-85, 88-87 to 88-89, 88-96, 88-97, and 88-98;
- (4) Subpart D, except sections 88-112 and 88-113; and
- (5) Subpart E, except sections 88-134 to 88-139.”

SECTION 13. Section 88-77, Hawaii Revised Statutes, is repealed.

SECTION 14. Section 88-78, Hawaii Revised Statutes, is repealed.

PART III.

SECTION 15. Section 88-89, Hawaii Revised Statutes, is amended to read as follows:

“**§88-89 Minimum amount.** Each retirant who has a minimum of ten years of credited service and whose service retirement allowance is less than \$50 per month, shall be paid [from the minimum pension fund] an amount which, together with the retirant’s retirement allowance, equals the sum of \$50 per month.”

SECTION 16. Section 88-109, Hawaii Revised Statutes, is amended to read as follows:

“**§88-109 Funds of the system.** The assets of the system are assigned to the following funds hereby created:

- (1) The annuity savings fund;
- (2) The pension accumulation fund; and
- [(3) The pension bonus fund;
- (4)] (3) The expense fund[; and
- (5) The minimum pension fund].”

SECTION 17. Section 88-126, Hawaii Revised Statutes, is amended to read as follows:

“**§88-126 Certification and payment of county contributions to system.** [Except as otherwise provided in section 88-118, the] The board of trustees shall certify annually to the councils of each county and to the director of finance of the State the amount due from each county on account of its employees who are members of the system. The council of each county shall include in its annual budget the amount certified to it by the board. The amount shall be paid by the county before October 1 and April 1 of each fiscal year. If the amount or any portion thereof is not paid by the county before October 1 and April 1 of each fiscal year, the director of finance shall retain out of the real property tax money collected for the year a sum equal to the amount or portion thereof not so paid. All the moneys retained and collected by the director of finance shall be deposited in the appropriate fund or funds of the system. The amount of any deficiency in meeting the obligations shall be added to the amount due from the county for the succeeding year.”

SECTION 18. Section 88-115.5, Hawaii Revised Statutes, is repealed.

SECTION 19. Section 88-117, Hawaii Revised Statutes, is repealed.

SECTION 20. Section 88-118, Hawaii Revised Statutes, is repealed.

PART IV.

SECTION 21. Section 88-119, Hawaii Revised Statutes, is amended to read as follows:

“**§88-119 Investments.** Investments may be made in:

- (1) Real estate loans and mortgages. Obligations (as defined in section 431:6-101) of any of the following classes:
  - (A) Obligations secured by mortgages of nonprofit corporations desiring to build multirental units (ten units or more) subject to control of the government for occupancy by families displaced as a result of government action;



- (B) Obligations secured by mortgages insured by the Federal Housing Administration;
- (C) Obligations for the repayment of home loans made under the Servicemen's Readjustment Act of 1944 or under Title II of the National Housing Act;
- (D) Other obligations secured by first mortgages on unencumbered improved real estate owned in fee simple; provided that the amount of the obligation shall not at the time investment is made therein exceed eighty per cent of the value of the real estate and improvements mortgaged to secure it, and except that the amount of the obligation at the time investment is made therein may exceed eighty per cent but no more than ninety per cent of the value of the real estate and improvements mortgaged to secure it; provided further that the obligation is insured or guaranteed against default or loss under a mortgage insurance policy issued by a casualty insurance company licensed to do business in the State. The coverage provided by the insurer should be sufficient to reduce the system's exposure to not more than eighty per cent of the value of the real estate and improvements mortgaged to secure it. Such insurance coverage shall remain in force until the principal amount of the obligation is reduced to eighty per cent of the market value of the real estate and improvements mortgaged to secure it, at which time the coverage shall be subject to cancellation solely at the option of the board of trustees. Real estate shall not be deemed to be encumbered within the meaning of this subparagraph by reason of the existence of any of the restrictions, charges, or claims described in section 431:6-308;
- (E) Other obligations secured by first mortgages of leasehold interests in improved real estate; provided that:
  - (i) [each] Each such leasehold interest at such time shall have a current term extending at least two years beyond the stated maturity of the obligation it secures[.]; and
  - (ii) [the] The amount of the obligation shall not at the time investment is made therein exceed eighty per cent of the value of the respective leasehold interest and improvements, and except that the amount of the obligation, at the time investment is made therein, may exceed eighty per cent but no more than ninety per cent of the value of the leasehold interest and improvements mortgaged to secure it; provided further that the obligation is insured or guaranteed against default or loss under a mortgage insurance policy issued by a casualty insurance company licensed to do business in the State. The coverage provided by the insurer should be sufficient to reduce the system's exposure to not more than eighty per cent of the value of the leasehold interest and improvements mortgaged to secure it. Such insurance coverage shall remain in force until the principal amount of the obligation is reduced to eighty per cent of the market value of the leasehold interest and improvements mortgaged to secure it, at which time the coverage shall be subject to cancellation solely at the option of the board of trustees;
- (F) Obligations for the repayment of home loans guaranteed by the department of Hawaiian home lands pursuant to section 214(b) of the Hawaiian Homes Commission Act, 1920; and

- (G) Obligations secured by second mortgages on improved real estate for which the mortgagor procures a second mortgage on the improved real estate for the purpose of acquiring the leaseholder's fee simple interest in the improved real estate; provided that any prior mortgage does not contain provisions which might jeopardize the security position of the retirement system or the borrower's ability to repay the mortgage loan.

The board of trustees may retain such real estate, including leasehold interests therein, as it may acquire by foreclosure of mortgages or in enforcement of security, or as may be conveyed to it in satisfaction of debts previously contracted; provided that all such real estate, other than leasehold interests, shall be sold within five years after acquiring the same, subject to extension by the governor for additional periods not exceeding five years each, and that all such leasehold interests shall be sold within one year after acquiring the same, subject to extension by the governor for additional periods not exceeding one year each;

- (2) Government obligations, etc. Obligations of any of the following classes:
  - (A) Obligations issued or guaranteed as to principal and interest by the United States or by any state thereof[, or by the Dominion of Canada or by any province thereof,] or by any municipal or political subdivision or school district of any of the foregoing; provided that principal of and interest on such obligations are payable in currency of the United States; or sovereign debt instruments issued by agencies of, or guaranteed by foreign governments;
  - (B) Revenue bonds, whether or not permitted by any other provision hereof, of the State or any municipal or political subdivision thereof, including the board of water supply of the city and county of Honolulu, and street or improvement district bonds of any district or project in the State; and
  - (C) Obligations issued or guaranteed by any federal home loan bank including consolidated federal home loan bank obligations, the Home Owner's Loan Corporation, the Federal National Mortgage Association, or the Small Business Administration;
- (3) Corporate obligations. [Obligations of any corporation created or existing under the laws of the United States or of any state or district thereof, and qualified under any of the following:
  - (A) Fixed interest-bearing obligations, if the average annual net earnings of the obligor or guarantor available for its fixed charges for a period of five fiscal years next preceding the date of the investment have equalled at least one hundred fifty per cent of its average annual fixed charges applicable to the period and if its net earnings for the last year of the period have equalled at least one hundred fifty per cent of its fixed charges for such year;
  - (B) Fixed interest-bearing obligations secured by assignment of a lease or leases, or the rentals payable thereunder, of real or personal property (including, without limitation, charters of vessels) to a corporation created or existing under the laws of the United States or of any state or district thereof; provided that (i) the fixed rentals assigned shall be sufficient to repay the principal of and interest on the obligation within the unexpired term of the lease, exclusive of the term which may be provided by any option

of renewal, and (ii) net earnings of the corporation shall meet the requirements described in subparagraph (A); and

- (C) Fixed interest-bearing obligations secured by rights or assignment of rights under a contract (including, without limitation, a contract for the sale of products, materials, supplies, or other property, or for the furnishing of transportation or services) with a corporation created or existing under the laws of the United States or of any state or district thereof; provided that (i) the rights securing such obligations shall include the right to receive payments sufficient to repay the principal of and interest on the obligations within the unexpired term of the contract, and (ii) the net earnings of the corporation shall meet the requirements described in subparagraph (A).

As used in this paragraph, the terms “fixed charges” and “net earnings available for fixed charges” shall have the meanings and application ascribed thereto in sections 431:6-101 and 431:6-102; Investments may be made in below investment grade or nonrated debt instruments, foreign or domestic, in accordance with investment guidelines adopted by the board of trustees;

- (4) Preferred and common stocks. Shares of preferred or common stock of any corporation created or existing under the laws of the United States or of any state or district thereof or of any country [in the Pacific Basin or Europe];
- (5) Obligations eligible by law for purchase in the open market by federal reserve banks;
- (6) Obligations issued or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, or the African Development Bank;
- (7) Obligations secured by collateral consisting of any of the securities or stock listed above and worth, at the time the investment is made, at least fifteen per cent more than the amount of the respective obligations;
- (8) Insurance company obligations. Contracts and agreements supplemental thereto providing for participation in one or more accounts of a life insurance company authorized to do business in Hawaii, including its separate accounts, and whether the investments allocated thereto are comprised of stocks or other securities or of real or personal property or interests therein;
- (9) Interests in real property. Interests in improved or productive real property in which, in the informed opinion of the board of trustees, it is prudent to invest funds of the system. For purposes of this paragraph, “real property” includes any property treated as real property either by local law or for federal income tax purposes. Investments in improved or productive real property may be made directly or through pooled funds, including common or collective trust funds of banks and trust companies, group or unit trusts, limited partnerships, investment trusts, title-holding corporations recognized under section 501(c)(2) or section 501(c)(23) of the Internal Revenue Code of 1986, as amended, and other pooled funds invested on behalf of the system by investment managers retained by the system; [and]
- (10) Other securities and futures contracts. Securities and futures contracts in which in the informed opinion of the board of trustees it is prudent to invest funds of the system, including currency, interest rate, bond, and stock index futures contracts and options on such contracts to hedge against anticipated changes in currencies, interest rates, and bond and

stock prices that might otherwise have an adverse effect upon the value of the system's securities portfolios; covered put and call options on securities; and stock; whether or not the securities, stock, futures contracts, or options on futures are expressly authorized by or qualify under the foregoing paragraphs, and notwithstanding any limitation of any of the foregoing paragraphs (including paragraph (4))[.]; and

- (11) Private placements. Investments in institutional blind pool limited partnerships or direct investments which make private debt and equity investments in privately held companies.”

SECTION 22. Section 88-119.5, Hawaii Revised Statutes, is amended to read as follows:

“**§88-119.5 Investment guidelines.** Notwithstanding any other law to the contrary, real estate loans and mortgages made pursuant to section 88-119(1)(D) and (E) shall be in accordance with conditions and restrictions set forth by the board of trustees; [provided that the board shall review its policy on the conditions and restrictions from time to time and formulate, amend, or repeal the conditions and restrictions giving full consideration to the prevailing economic conditions in the real estate industry; provided further that for good cause shown, the board of trustees shall duly consider a member's application for waiver of any condition or restriction imposed by the board of trustees; and] provided [further] that the board may establish the minimum and maximum loan amounts and interest rates for these real estate loans and mortgages by motion, at any duly noticed meeting of the board. [The board of trustees shall liberally construe this section; provided that no exception shall be made which may substantially impair the fiscal integrity of the system's funds.] The board of trustees, subject to chapter 91, shall adopt, amend, and repeal rules having the force of and effect of law to implement all provisions of this section other than those relating to loan amounts and interest rates for its real estate loans and mortgages.”

PART V.

SECTION 23. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 24. Statutory material to be repealed is bracketed.<sup>1</sup> New statutory material is underscored.

SECTION 25. This Act shall take effect upon its approval.

(Approved July 7, 1998.)

Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 152

H.B. NO. 2843

A Bill for an Act Relating to Drug Demand Reduction Assessments.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature makes the following findings:

- (1) A growing body of research demonstrates the destructive impact of alcohol and other drug abuse on personal health and health care costs, the spread of communicable disease, educational performance and attainment, work force participation, safety and productivity in the workplace, and financial stability. These indicators of social erosion are in turn related to crime in many obvious but hard to measure ways. Given the recognized relationship between crime and substance abuse and addiction, it is necessary and appropriate to use, adapt, and expand the resources and remedies available within the criminal justice system to address the problem of substance abuse dependency and thereby to help reduce the demand for illicit drugs and the incidence of drug-related crimes.
- (2) Studies, such as the drug use forecasting studies conducted by the National Institute of Justice, reveal that a large percentage of persons arrested for both drug and nondrug offenses (such as thefts, burglaries, robberies, assaults, rapes, and homicides) test positive for recent drug use. Many offenses are committed by adults who are under the influence of a controlled substance or alcohol or are committed in order to raise revenues to support the person's drug habit. Some mind and mood altering drugs, moreover, seem to induce criminal and often violent behavior, reducing the person's inhibitions as well as the person's ability to anticipate future consequences, thereby undermining the deterrent thrust of the criminal law. Some drugs also may reduce an offender's ability to empathize with a potential victim, resulting in episodes of seemingly mindless violence. Finally, some crimes, including crimes of violence, are committed in the normal course of conducting illicit drug businesses and enterprises. These include strong arm robberies and "rip-offs", violent retaliations for these offenses, and efforts to protect markets and "turf" by means of intimidation and terrorism directed against would-be competitors and drug purchasers who patronize competing drug distributors.
- (3) Research has demonstrated that substance abuse and addiction is treatable within the offender population and that appropriate actions by criminal justice professionals can foster the effectiveness of treatment. This research further demonstrates that the effectiveness of substance abuse treatment is directly related to the length of stay in treatment. The threat of criminal justice sanctions, in turn, can be used to motivate offenders to enter treatment and stay in treatment for as long as necessary to effect positive change. To achieve this change, treatment must be of sufficient duration and intensity, must be supported by periodic comprehensive drug testing to maintain program integrity, must be provided by professional staff who have received adequate training and who continue to receive training and adequate supervision, and must provide for the continued collection and analysis of program data to allow for both process and impact evaluation. Moreover, the drug and alcohol treatment programs must be accredited by the department of health and must be appropriate in type, duration, and intensity

based upon the length and level of treatment derived from an alcohol and other drug assessment of each individual's needs, balanced with the public's right to protection.

- (4) Few addicts voluntarily seek help for a substance abuse problem. Many drug dependent persons deny that they have a problem. Consequently, the decision to participate in treatment typically is the result of pressure brought to bear by other persons, including family members, friends, co-workers, employers, medical and health care professionals, school officials, courts, or law enforcement agencies. Since a substantial percentage of referrals for substance abuse treatment come from law enforcement agencies, the law enforcement community acts as a major point of entry to the substance abuse treatment system. It is in the public interest to use the coercive powers of the law enforcement community and their jurisdiction over persons charged with committing crimes to constructively influence substance abusing and addicted offenders and to provide strong incentives for these offenders to accept help and to participate and remain as long as necessary in meaningful treatment and monitoring programs.
- (5) Most addicted offenders who are convicted of serious crimes and who are sentenced to terms of imprisonment will eventually be released back into the community on parole or at the expiration of their sentences. Without proper treatment, an offender is likely to continue to be drug dependent and to commit new offenses, resulting in further injury to victims, loss of property, and the expenditure of scarce resources to identify, apprehend, prosecute, and return the offender to confinement. Under these circumstances, the overriding need to protect the public safety requires that all substance abusing and addicted offenders receive appropriate treatment and monitoring services, based on the individual's need as determined by an alcohol and other drug assessment, either in lieu of or during the course of traditional imprisonment, and continue to receive needed treatment or appropriate aftercare, support, or monitoring services as a condition of parole or other release from confinement.
- (6) Persons charged with repeat offenses who actively abuse or are addicted to a controlled substance or alcohol and who are not undergoing appropriate treatment and monitoring pose a proportionately greater risk of criminal recidivism.
- (7) To ensure uniformity and the best possible use of limited resources, the department of health must develop and enforce accreditation and operational standards for all programs, whether public or private, that provide substance abuse assessment services or treatment services to adults who are repeat offenders who are inmates in correctional centers and facilities.
- (8) For treatment and intervention services to be most effective, alcohol and other drug abusing and addicted offenders must be assured that information provided during the course of treatment and counseling will be kept confidential in accordance with 42 United States Code section 290dd-3 and 42 C.F.R. Part 2, which govern the confidentiality of alcohol and other drug abuse treatment records. Without these protections, an offender in need of alcohol and other drug treatment services may be discouraged from constructively engaging in the treatment process. Preserving the confidentiality of treatment information and records is consistent with the vital goal of holding alcohol and

other drug abusing and addicted offenders fully accountable for their past and future actions.

The purpose of this Act is to establish a substance abuse assessment and treatment program to identify those inmates who are repeat offenders who are inmates in correctional centers and facilities, who actively abuse a controlled substance or alcohol, who are alcohol or drug dependent, or who are otherwise in need of substance abuse treatment and monitoring. It is the intent of this Act to establish cost-effective substance abuse assessment, treatment, and monitoring services; and hold substance abusing repeat offenders accountable for their past and future actions by means of an effective combination of rewards, threats, and swiftly imposed punishments and sanctions designed to take full advantage of the coercive influence of the criminal justice system.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
CRIMINAL OFFENDER TREATMENT ACT**

§ -1 **Title.** This Act shall be known and may be cited as the “Criminal Offender Treatment Act”.

§ -2 **Definitions.** As used in this chapter unless the context requires otherwise:

“Assessment” means an ongoing process through which a substance abuse professional collaborates with a client and other persons to gather and interpret information necessary for planning treatment and evaluating the client’s progress.

“Assessment program” refers to a not-for-profit corporation, government agency, or other entity accredited by the department of health to provide substance abuse services, or to a substance abuse professional certified pursuant to section 321-193.

“Drug or alcohol dependent” means in a state of physical or psychological dependence, or both, arising from the use of a controlled substance or alcohol on a continuous basis that is characterized by behavioral and other responses, including but not limited to a strong compulsion to take the controlled substance or alcohol on a recurring basis, regardless of consequence, in order to experience its psychotropic effects or to avoid the discomfort of its absence.

“Repeat offender” means any inmate in a state correctional center or facility who meets the requirements of section -3(a).

“Substance abuse or additional treatment” means any type of drug or alcohol treatment ordered by the department of public safety, the Hawaii paroling authority, or the agency responsible for monitoring a person’s compliance with the terms and conditions of parole or other release from a correctional center or facility to address a person’s drug or alcohol dependence or other substance abuse or addiction treatment.

“Substance abuse program” or “treatment program” means a program concerned with education, prevention, or treatment directed toward achieving the prevention of substance abuse, or the social, mental, and physical restoration of substance abusers. The term “program” is synonymous with facility, agency, unit, and organization.

“Test” or “drug test” means a test conducted in a medically safe and appropriate manner to determine the presence or absence of alcohol or controlled substance metabolites, or to determine the recent or historical use of alcohol or a controlled substance by the subject of the test.

§ -3 **Mandatory drug testing of repeat offenders.** (a) Any inmate who has been convicted of an offense under chapters 329, 329C, 707, 708, 709, 710, 711, or 712, and has one prior conviction under any of these chapters, shall be required to submit to drug testing.

(b) Drug tests shall be administered by the department of public safety, in accordance with drug testing standards or rules adopted by the department of health that ensure fair, accurate, and reliable testing and confirmatory procedures and protect the chain of custody as required by section 329B-2.5(4). The sample or specimen used in the drug test shall be provided by or taken from the inmate in a medically safe and appropriate manner.

(c) The test shall be performed as soon as practicable after conviction and prior to the release of the inmate. If an inmate has not undergone a drug test prior to the time of release, submission to a drug test shall be a condition of the inmate's release pursuant to section -7.

§ -4 **Mandatory assessment of offenders.** (a) Any inmate who has been convicted of more than one offense under chapters 329, 329C, 707, 708, 709, 710, 711, or 712, and has one prior conviction under any of these chapters, shall be required to undergo an assessment if:

- (1) The inmate refuses to undergo a drug test required under section -3;
- (2) The results of the drug test conducted pursuant to section -3 reveal the presence of a controlled substance, for which the inmate has no lawful prescription, or reveals alcohol abuse or dependency;
- (3) The inmate requests an assessment;
- (4) The inmate admits to the unlawful use of a controlled substance within the year preceding the conviction for the present charge or admits to alcohol abuse or alcoholism;
- (5) The inmate has been granted a conditional discharge within the past five years pursuant to section 712-1255 or any similar or predecessor law of this State, any other state, or federal law;
- (6) The inmate has been sentenced within the past five years to probation or treatment during incarceration pursuant to this chapter or any similar or predecessor law of this State, any other state, or federal law; or
- (7) The present or pending charge involved the use or possession of a controlled substance or alcohol.

(b) Notwithstanding the requirements of subsection (a), the department of public safety or the agency responsible for monitoring a person's compliance with the terms and conditions of parole or other release from a correctional center or facility may order the person to undergo an assessment if the department or agency has reason to believe that the person is drug or alcohol dependent or would otherwise benefit from an assessment.

(c) An inmate confined in a state correctional center or facility shall undergo an unannounced prerelease assessment before receiving a grant of parole or other release from the correctional center or facility if:

- (1) The inmate at any time was ordered to undergo an assessment pursuant to this chapter;
- (2) The inmate would have been statutorily required to undergo an assessment pursuant to this chapter had this chapter been in effect at the time the inmate was convicted for the offense for which the inmate presently is serving a term of incarceration;
- (3) The inmate at any time during the inmate's incarceration committed an institutional infraction or violation that involved the use or possession of a controlled substance or alcohol; or



(4) The department of public safety or the agency responsible for monitoring the inmate's compliance with the terms and conditions of parole or other release from a correctional center or facility has reason to believe that the inmate is drug or alcohol dependent or would otherwise benefit from substance abuse or addiction treatment or related support services.

(d) An assessment required pursuant to subsection (c) shall occur within sixty days of the inmate's scheduled parole or other release from a correctional center or facility.

(e) Any assessment under this chapter shall be conducted by a substance abuse professional certified pursuant to section 321-193 or an assessment program in accordance with the standards, procedures, and alcohol and other drug diagnostic criteria designated or established by the department of health to determine whether and to what extent a person is drug or alcohol dependent and to provide the most cost-beneficial use of available resources.

**§ -5 Drug test results or assessment; confidentiality of.** (a) Unless otherwise ordered by a court, the drug test results and assessment results of an inmate, parolee, or other person released from a correctional center or facility shall be provided as soon as practicable to the inmate, parolee, or other person who submitted to the test or assessment, the department of public safety or the agency responsible for monitoring the parolee's or other person's compliance with the terms and conditions of parole or other release from a correctional center or facility, as applicable, and the assessment program or treatment program, as applicable.

(b) The assessment shall include:

- (1) A clinical summary based on information gained through the assessment;
- (2) A diagnosis supported by the clinical summary; and
- (3) A recommendation for level of substance abuse treatment, supported by the clinical summary.

(c) Anyone receiving drug test results or assessment results under subsection (a) shall keep that information confidential in accordance with the requirements of 42 United States Code section 290dd-3.

**§ -6 Use of drug test or assessment results.** (a) Except as provided by law, the results of an inmate's drug test required or ordered under this chapter shall be used only to determine:

- (1) Whether the department of public safety shall order treatment or an assessment;
- (2) Appropriate conditions of parole or other release from a correctional center or facility; or
- (3) An appropriate sanction for violation of a term or condition of the person's participation in a treatment program imposed pursuant to section -9 or any other law.

(b) Except as provided by law, an assessment shall be used only for the purposes listed in subsection (a)(2) or (a)(3) and to provide background information about an inmate to any person or agency conducting a prerelease assessment pursuant to section -4.

(c) Except as provided in this chapter, any information obtained as a result of an assessment program or a treatment program, including positive drug tests, shall be kept confidential in accordance with the requirements of 42 United States Code section 290dd-3.

**§ -7 Conditions of parole or other release from a correctional center or facility.** (a) If an inmate ordered pursuant to this chapter to participate in a

treatment program is granted parole or other release from a correctional center or facility, the inmate shall agree as a condition of parole or other release to the following terms:

- (1) Submit to subsequent unannounced, random, periodic drug tests to be performed by the agency responsible for monitoring the inmate's compliance with the terms and conditions of parole or other release from a correctional center or facility;
  - (2) Undergo an assessment as required by section -4 and cooperate fully with the assessment program;
  - (3) Participate in a treatment program and cooperate fully with the treatment program;
  - (4) Fulfill satisfactorily any other terms and conditions ordered by the agency responsible for monitoring the inmate's compliance with the terms and conditions of parole or other release from a correctional center or facility, including but not limited to:
    - (A) Periodic telephone contact or office visits to a designated person or agency;
    - (B) Periodic unannounced visits by a designated person or agency to the inmate's home or place of commitment;
    - (C) Curfew or restricted travel and associations; and
    - (D) Electronic monitoring.
  - (5) Cooperate fully with the agency responsible for monitoring the inmate's compliance with the terms and conditions of parole or other release from a correctional center or facility; and
  - (6) Pay drug testing and assessment fees in accordance with section -10.
- (b) The inmate shall acknowledge, as a condition of parole or other release from a correctional center or facility, that failure to comply with the terms set forth in subsection (a) may result in the modification of the conditions of parole or other release by the agency responsible for monitoring the inmate's compliance.
- (c) Nothing in this chapter shall preclude a person from petitioning the agency responsible for monitoring the person's compliance with the terms and conditions of parole or other release from a correctional center or facility to modify the terms and conditions of the person's parole or other release.

**§ -8 Report on progress in treatment programs and compliance with conditions.** (a) If a person has been ordered to participate in a treatment program, the designated treatment program shall report periodically on the person's progress in the treatment program to the agency responsible for monitoring the person's compliance with the terms and conditions of parole or other release from a correctional center or facility.

(b) A designated treatment program shall promptly notify the agency responsible for monitoring the person's compliance with the terms and conditions of parole or other release from a correctional center or facility if the person:

- (1) Fails to comply with program rules and treatment expectations; or
- (2) Refuses to engage constructively in the treatment process; or
- (3) Terminates participation in the treatment program.

Upon this notification, the agency responsible for monitoring the person's compliance shall promptly report the person's actions to the appropriate authority.

**§ -9 Sanctions.** Upon a positive drug test or any other substantive violation of any term or condition of a person's participation in a treatment program ordered pursuant to this chapter, the appropriate authority shall immediately impose such sanction or combination of sanctions as may be appropriate. If the appropriate

authority elects not to impose a sanction, the appropriate authority shall make a written finding setting forth the reasons for its decision.

**§ -10 Drug testing or assessment fees.** (a) Except as provided in subsection (b), the agency responsible for monitoring a person's compliance with the terms and conditions of parole or other release from a correctional center or facility shall impose upon the person reasonable fees to cover the cost of:

- (1) Any drug test of the person required or ordered under this chapter; and
- (2) Any assessment of the person required or ordered under this chapter.

The fees shall not be less than the actual and administrative costs of a drug test or assessment. The fees may be deducted from any income a person has received as a result of labor performed in a correctional center or facility or any type of work release program.

(b) Upon a finding of indigence, the agency responsible for monitoring a person's compliance with the terms and conditions of parole or other release from a correctional center or facility shall require the person to pay as much of the fee as is consistent with the person's ability to pay.

(c) All fees collected pursuant to subsection (a)(1) shall be forwarded to the agency responsible for monitoring the person's compliance with the terms and conditions of parole or other release from a correctional center or facility for payment of costs associated with the agency's drug testing program.

(d) All fees collected pursuant to subsection (a)(2) shall be forwarded to the assessment program for payment of costs associated with the provision of assessments.

**§ -11 Escape from residential treatment facility.** A person placed into a residential treatment facility or program pursuant to this chapter shall be deemed to be subject to official detention for the purposes of a criminal prosecution for violation of section 710-1020 or 710-1021.

**§ -12 Satisfactory progress in treatment program as mitigating factor.** A person's satisfactory progress in a treatment program as determined by the treatment program's report shall be considered a mitigating factor and evidence of the person's amenability to treatment for purposes of determining the terms and conditions of parole or other release from a correctional center or facility.

**§ -13 Reporting and implementation.** (a) Every assessment program, treatment program, correctional center or facility, and parole agency that provides services pursuant to this chapter or that otherwise supervises a person or issues an order pursuant to this chapter shall keep case-specific records and aggregate data and statistics as may be required by the department of health.

(b) The department of public safety, in conjunction with the department of health, shall report on an annual basis to the legislature and to the governor, its findings concerning the need for and implementation of the various provisions of this chapter. The report shall include a synopsis of information or data necessary to determine the impact, utility, and cost-benefits of the provisions of this chapter.

(c) The department of public safety, in conjunction with the department of health, shall establish an advisory board that shall be comprised of judges, prosecutors, defense attorneys, adult probation officials, parole officials, correctional officials, representatives of assessment programs and treatment programs, and individuals working in licensed alcohol and other drug abuse treatment facilities who are past consumers of treatment services. The advisory board shall meet periodically to discuss the provisions, implementation, and evaluation of this chapter, and to make recommendations to the department of health.

(d) Except as provided in this chapter, all data, information, or records kept or compiled pursuant to this section shall be deemed to be government records for the purposes of chapter 92F.

§ -14 **Rules.** The department of public safety shall adopt rules in accordance with chapter 91, and shall develop and periodically review and revise guidelines, directives, standards, and protocols and shall take other actions as are necessary and appropriate, to effectuate the purposes of this chapter.

§ -15 **Accreditation and standards.** All treatment programs and assessment programs providing services pursuant to this chapter shall be accredited by the department of health. In addition, the department of health shall designate accredited treatment programs and assessment programs that have special skills in providing treatment services and assessment services to persons involved in or referred from the criminal justice system. The department of health shall develop program standards to ensure the provision of the full continuum of care for persons ordered to participate in a treatment program pursuant to this chapter. The standards shall address, but need not be limited to, the following:

- (1) Defining the continuum of care;
- (2) Matching persons to appropriate treatment programs; and
- (3) Recruiting and hiring practices representative of the population to be treated, including individuals in recovery from alcohol and other drug abuse and addiction.

§ -16 **Funding sources.** (a) The department of public safety, with the assistance of the department of health, may pursue all available funding through federal programs and private sources. Contingent upon the receipt of sufficient funds, the department of public safety may implement the assessment and treatment services mandated pursuant to this chapter. If at any time funds are not available, the department may not be required to provide these services. In addition, the department of public safety, in conjunction with the department of health, may pursue all available federal matching funds through Medicaid for nonhospital residential alcohol and other drug treatment services from the United States Health Care Financing Administration.

(b) Where the person to whom assessment services or treatment services are provided pursuant to this chapter is a member of a health maintenance organization or otherwise covered by any contract or program for health insurance, every reasonable effort shall be made to ensure that the cost of assessment services and treatment services are defrayed by the health maintenance organization or insurer. Notwithstanding any other law to the contrary, where a health maintenance organization, insurer, or managed care contractor disputes the treatment recommendation accepted by the appropriate authority pursuant to this chapter, the treatment recommendation shall prevail and shall be deemed to be reasonable and appropriate.

§ -17 **Immunity from liability.** (a) Any accredited assessment program or treatment program or substance abuse professional certified pursuant to section 321-193 that, in good faith, provides services pursuant to this chapter shall not be liable in any civil action for damages as a result of any acts or omissions in providing assessment services or treatment services; provided the skill and care given is that ordinarily required and exercised by other persons in the profession. The grant of immunity provided for in this subsection also shall extend to all employees and administrative personnel of the accredited program.

(b) Any qualified person who withdraws or otherwise obtains, in a medically accepted manner, a specimen of breath, blood, urine, or other bodily substance

pursuant to this chapter shall not be liable in any civil action for damages for so acting; provided that the skill and care exercised is that ordinarily required and exercised by similar programs or other persons in the profession.

§ -18 **Statutory construction.** The provisions of this chapter shall be liberally construed to effectuate its remedial and rehabilitative purposes.”

SECTION 3. Act 205, Session Laws of Hawaii 1995, as amended by Act 7, Session Laws of Hawaii 1996, is amended by amending section 4 to read as follows:

“SECTION 4. This Act shall take effect upon its approval and shall be repealed on [June 30, 1998.] June 30, 2001.”

SECTION 4. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provisions or application, and to this end the provisions of this chapter are severable.

SECTION 5. If any part of this Act is found to be in conflict with federal requirements that are a prescribed condition for the allocation of federal funds to the State, the conflicting part of this Act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this Act in its application to the agencies concerned. The rules under this Act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the State.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval; provided that section 3 shall take effect on June 29, 1998.

(Approved July 7, 1998.)

## ACT 153

H.B. NO. 3192

A Bill for an Act Relating to Support Enforcement.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 231-51, Hawaii Revised Statutes, is amended to read as follows:

“**§231-51 Purpose.** The purpose of sections 231-52 to 231-59 is to permit the retention of state income tax refunds of those persons who owe a debt to the State, who are delinquent in the payment of child support[,] pursuant to section 576D-1, who have defaulted on an education loan note held by the United Student Aid Funds, Inc., or who owe federal income taxes to the United States Treasurer.”

SECTION 2. Section 231-52, Hawaii Revised Statutes, is amended by amending the definitions of “claimant agency,” “debt,” and “debtor” to read as follows:

““Claimant agency” includes any state agency, board, commission, department, institution, or other state organization, or any subdivision thereof. In the case of delinquent child support[,] pursuant to section 576D-1, “claimant agency” means the child support enforcement agency or an agency under cooperative agreement with the department whenever the department is required by law to enforce a support order on behalf of an individual. “Claimant agency” includes the department of budget and finance when acting on behalf and at the request of the United Student Aid Funds, Inc. to collect defaulted education loan notes incurred under the federal Higher Education Act of 1965 (Public Law 89-329, 79 Stat. 1219), as amended; provided that the department has a contract with the United Student Aid Funds, Inc. under chapter 309 when acting as a claimant agency. “Claimant agency” includes the department of taxation when acting on behalf and at the request of the Internal Revenue Service under the United States Department of the Treasury, and when the Internal Revenue Service is authorized by federal law to administratively impose a levy upon a refund of a debt or in satisfaction of the federal income taxes assessed under Internal Revenue Code of 1986, as amended.

“Debt” includes either:

- (1) Any delinquency in periodic court-ordered or administrative-ordered payments for child support pursuant to section 576D-1, in an amount equal to or exceeding the sum of payments which would become due over a one-month period; or
- (2) Any liquidated sum exceeding \$25 which is due and owing any claimant agency, regardless of whether there is an outstanding judgment for that sum, and whether the sum has accrued through contract, subrogation, tort, operation of law, or judicial or administrative judgment or order; or
- (3) Any defaulted education loan note held by the United Student Aid Funds, Inc. incurred under the federal Higher Education Act of 1965 (Public Law 89-329, 79 Stat. 1219), as amended; or
- (4) Any federal income taxes due and owing to the United States Treasurer.

“Debtor” includes any person who owes a debt to any claimant agency, who is delinquent in payment of court-ordered or administrative-ordered child support payments, pursuant to section 576D-1, who has defaulted on an education loan note held by the United Student Aid Funds, Inc. incurred under the federal Higher Education Act of 1965 (Public Law 89-329, 79 Stat. 1219), as amended, or who owes federal income taxes to the United States Treasurer.”

SECTION 3. Section 383-163.5, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) As used in this section, the term “child support obligations” includes only obligations which are being enforced [pursuant to a plan described in section 454 of the Social Security Act and approved by the Secretary of Health and Human Services under part D of title IV of the Social Security Act.] pursuant to section 576D-1.”

SECTION 4. Section 576D-1, Hawaii Revised Statutes, is amended by amending the definitions of “child support” and “order of support” to read as follows:

““Child support” means payment for the necessary support and maintenance of a child as required by law[.] that includes but is not limited to spousal support when ordered in conjunction with child support or medical support when a court or administrative order requires the debtor parent to pay an amount in lieu of

providing medical insurance coverage or to reimburse for maternity and delivery expenses incurred when the debtor parent's child was born.

“Order of support” means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorney’s fees, and other relief. An order of support may include spousal support when ordered to be paid in conjunction with child support. An order of support may also include medical support when the debtor parent is ordered to pay an amount in lieu of providing medical insurance coverage or to reimburse for maternity and delivery expenses incurred when the debtor parent’s child was born.”

SECTION 5. Section 576D-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The agency shall:

- (1) Establish a state parent locator service for the purpose of locating absent and custodial parents;
- (2) Cooperate with other states in:
  - (A) Establishing paternity, if necessary;
  - (B) Locating an absent parent who is present in the State and against whom any action is being taken under a Title IV-D program in any other state; and
  - (C) Securing compliance by such an absent parent with a support order issued by a court of competent jurisdiction in another state;
- (3) Perform periodic checks of whether a parent is collecting unemployment compensation and, if so, to arrange, either through agreement with the parent or by bringing legal process, to have a portion of the compensation withheld, to fulfill the parent’s child support obligations;
- (4) Notify annually each custodial parent, guardian, protective payee, or other person having custody of the child of an Aid to Families with Dependent Children family of the amount of child support collected on behalf of the child in the family. For the purpose of this section, “Aid to Families with Dependent Children family” means a family which receives financial assistance under the federal Aid to Families with Dependent Children program or its successor;
- (5) Establish and utilize procedures which shall require a debtor parent to give security, post bond, or give some other guarantee to secure payment of delinquent child support. The procedures shall apply to all debtor parents of children described under section 576D-3. The procedures shall include advance notice to the debtor parent in full compliance with the State’s procedural due process requirements. The agency shall develop guidelines, which are available to the public, to determine whether the case is inappropriate for application of this requirement;
- (6) Establish and utilize procedures by which information regarding the name of the debtor parent and the amount of delinquent child support owed by a debtor parent residing in the State will be made available to any consumer reporting agency[.] as defined in section 603(f) of the Fair Credit Reporting Act. The procedures shall be effectuated upon the agency being authorized to provide Title IV-D services, and shall include provisions on advance notice to the debtor parent whose infor-

mation is being reported of the procedures, which shall be in full compliance with the State's procedural due process requirements, to contest the accuracy of the information;

- (7) Establish and utilize procedures which will enforce liens against the real and personal property of a debtor parent who owes overdue support and who resides or owns property in the State. The agency shall further establish guidelines which are available to the public to determine whether the case is inappropriate for application of this paragraph;
- (8) Establish and utilize procedures for the notification of a custodial parent that any income tax refund setoff under section 231-53 shall be credited to child support debts for past public assistance or foster care maintenance before any other debt;
- (9) Establish and utilize procedures for prompt reimbursements of overpayments of child support debts from income tax refund setoffs under section 231-53. The procedures shall provide for the reimbursements to be made by the custodial parent or agency;
- (10) Establish and utilize procedures for periodic review and modification of child support orders in accordance with Title IV-D;
- (11) Provide notice not less than once every three years to those parents subject to an order of support informing the parents of their right to request the agency to review and, if appropriate, adjust the order of support pursuant to the guidelines established under section 576D-7;
- (12) Establish and operate a state case registry which contains records of:
  - (A) Each case in which services are being provided by the agency under the state plan; and
  - (B) Each support order established or modified in the State on or after October 1, 1998.

Such records shall use standardized data elements for both parents, including but not limited to names, residential and mailing addresses, telephone numbers, driver's license numbers, names, addresses, and telephone number of the party's employer, social security numbers and other uniform identification numbers, dates of birth, and case identification numbers, and contain such other information as required by the United States Secretary of the Department of Health and Human Services. In each case with respect to subparagraph (A) and where a support order has been established, the case record shall include the amount of monthly or other periodic support owed under the order, and other amounts, including but not limited to arrearages, due under the order, the amounts collected under the order, the birthdate of any child for whom the order requires the provision of support, and the amount of any lien imposed;

- (13) Perform other duties required under chapter 576B, the Uniform Interstate Family Support Act; and
- (14) Perform other duties required under Title IV-D."

SECTION 6. Section 576D-12, Hawaii Revised Statutes, is amended to read as follows:

**“§576D-12 Protection of records; divulging confidential information prohibited; penalties.** (a) The agency and its agents shall keep such records as may be necessary or proper in accordance with this chapter. All applications and records concerning any applicant for support services or recipient of public assistance shall be confidential. The use or disclosure of information concerning any applicant or recipient shall be limited to:



- (1) Persons duly authorized by the State or the United States in connection with their official duties, when their official duties are directly concerned with the administration and implementation of any child support enforcement plan or program approved by Title IV-A through D, or under Titles II, X, XIV, XVI, XIX, or XX of the Social Security Act, including but not limited to any legal counsel working on behalf of the agency;
- (2) Disclosure to the extent necessary to provide information to family support payors or payees or their authorized representatives regarding payments received by the agency and the status of their support accounts; provided that the information shall be disclosed to an authorized representative only if the request is accompanied by a written waiver of the payor or payee concerned;
- (3) Disclosure to consumer reporting agencies as provided in section 576D-6(a)(6);
- (4) Other agencies or persons connected with the administration of any other federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need;
- (5) Employees acting within the scope and course of their employment with the department as may be approved by the agency; [and]
- (6) Purposes directly connected with any investigation, enforcement, prosecution, or criminal or civil proceeding conducted in connection with the administration of any plan or program in paragraph (1); and
- (7) Disclosure to the family court as may be deemed necessary by the family court for any case pending before a court or for purposes of implementation of section 571-51.5.

(b) Disclosure to any committee or legislative body (federal, state, or county) of any information that identifies by name and address any applicant or recipient shall be prohibited.

(c) The agency shall not disclose information relating to the location of one party or the child to another party if the agency knows a protective order has been entered with respect to the other party. The agency shall not disclose information related to the location of one party or the child to another person if the agency has reason to believe that disclosure of the information to that person may result in physical or emotional harm to the [other] party[.] or the child.

(d) When the Secretary of Health and Human Services or the Secretary's agent discloses information about a parent or child to a family court or hearings officer and advises that court or hearings officer that the Secretary has been notified that there is reasonable evidence of domestic violence or child abuse, the court or hearings officer shall determine whether disclosure to any other person of information received from the Secretary could be harmful to the parent or child and, if the court or hearings officer determines that disclosure to any other person could be harmful, the court or hearings officer shall not make any such disclosure;

(d) (e) The agency shall adopt and enforce such rules as may be necessary to prevent improper acquisition or use of confidential information. Any information obtained pursuant to this section by officials, employees, or legal counsel working on behalf of the agency may be used in connection with their official duties or within the scope and course of their employment but not otherwise, and shall be kept in confidential records or files, which shall not be subject to any other law permitting inspection of government records. The agency and its agents shall determine whether the inspection is in connection with the official duties or within the scope and course of employment.

[(e)] (f) The use of the records, and other communications of the agency or its agents by any other agency or department of the government to which they may be furnished, shall be limited to the purposes for which they are furnished.

[(f)] (g) Any person, including any person who is authorized by this section to obtain information, who, knowing the information obtained is from confidential records or files of the agency, intentionally discloses the information other than as authorized by law, or who intentionally or knowingly aids or abets in the inspection or disclosure of the applications or records by any person not authorized by this section to inspect such applications or records, shall be guilty of a misdemeanor, unless a greater penalty is otherwise provided by law.

[(g)] (h) Nothing in this section shall require the sealing of family court records or preclude the disclosure of information by the family court relating to any case pending before a court or for purposes of implementation of section 571-51.5.”

SECTION 7. Section 576D-18 is amended by amending subsection (d) to read as follows:

“(d) Other state or territorial agencies administering a program under Title IV-D shall have access, including automated inquiry access, to the records of all entities in the State for information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor, to the same extent and with the same restrictions as child support enforcement investigators pursuant to this chapter. Other federal, state, and territorial agencies conducting activities under the Title IV-D program shall have access to any system used by the state to locate an individual for purposes relating to motor vehicles or law enforcement.”

SECTION 8. Section 576E-1, Hawaii Revised Statutes, is amended by amending the definitions of “child support” and “order of support” to read as follows:

““Child support” means payment for the necessary support and maintenance of a child as required by law[.] that includes but is not limited to spousal support when ordered in conjunction with child support or medical support when a court or administrative order requires the debtor parent to pay an amount in lieu of providing medical insurance coverage or to reimburse for maternity and delivery expenses incurred when the debtor parent’s child was born.

“Order of support” means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorney’s fees, and other relief. An order of support may include spousal support when ordered to be paid in conjunction with child support. An order of support may also include medical support when the debtor parent is ordered to pay an amount in lieu of providing medical insurance coverage or to reimburse for maternity and delivery expenses incurred when the debtor parent’s child was born.”

SECTION 9. Section 584-12, Hawaii Revised Statutes, is amended to read as follows:

“§584-12 Evidence relating to paternity. Evidence relating to paternity may include:

- (1) Evidence of sexual intercourse between the mother and the alleged father at any possible time of conception;
- (2) An expert’s opinion concerning the statistical probability of the alleged father’s paternity based upon the duration of the mother’s pregnancy;
- (3) Genetic test results, including blood test results, weighted in accordance with evidence, if available, of the statistical probability of the alleged father’s paternity;
- (4) Medical or anthropological evidence relating to the alleged father’s paternity of the child based on tests performed by experts. If a man has been identified as a possible father of the child, the court may, and upon request of a party shall, require the child, the mother, and the man to submit to appropriate tests;
- (5) A voluntary, written acknowledgment of paternity [that shall create a rebuttable presumption of paternity; and];
- (6) Bills for pregnancy and childbirth, including medical insurance premiums covering this period and genetic testing, without the need for foundation testimony or other proof of authenticity or accuracy, and these bills shall constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child; and
- [(6)] (7) All other evidence relevant to the issue of paternity of the child.’’

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval.

(Approved July 7, 1998.)

## ACT 154

S.B. NO. 2821

A Bill for an Act Relating to the Code of Financial Institutions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that it is in the public interest to attract foreign capital to the State for investment, revenue enhancement, and other economic development purposes. With the plethora and demise of Japanese investments of a decade ago, the State must take the initiative to investigate new sources of foreign capital to stimulate Hawaii’s economy.

A novel approach to attracting foreign capital is through foreign capital depositories. Newly introduced in Montana, foreign capital depositories allow foreign depositors to deposit their assets with financial privacy and asset protection. The Montana law is the first of its kind in the nation and could represent possible application to Hawaii. Before any further legislative consideration is given to this idea, however, it is incumbent upon the legislature to determine the feasibility of chartering foreign capital depositories in the State.

The purpose of this Act is to convene a task force in the department of business, economic development, and tourism to study and recommend to the legislature the feasibility of chartering foreign capital depositories in Hawaii under the code of financial institutions.

SECTION 2. (a) There is established a foreign capital depository task force within the department of business, economic development, and tourism for administrative purposes to consist of the following members:

- (1) The director of business, economic development, and tourism, who shall serve as the lead chairperson of the task force;
- (2) The commissioner of financial institutions or the commissioner's designee;
- (3) The director of taxation or the director's designee;
- (4) The prosecuting attorney of the city and county of Honolulu or the prosecuting attorney's designee, who shall also serve as the liaison of the task force to the prosecutors of the other counties;
- (5) The attorney general or the attorney general's designee;
- (6) The chief of police of the city and county of Honolulu or a designee of the chief of police, who shall also serve as the liaison of the task force to the chiefs of police of the other counties;
- (7) A member of the banking community designated by the director of business, economic development, and tourism; and
- (8) Any other agency or designee deemed appropriate by the director of business, economic development, and tourism.

(b) The task force shall serve until it has accomplished the objectives of this Act or twenty days prior to the convening of the regular session of 1999, whichever occurs first.

(c) The task force shall investigate the feasibility of chartering foreign capital depositories in the State under the code of financial institutions. The investigation shall also include but not be limited to the following:

- (1) Economic development and business opportunities that may result from chartering foreign capital depositories;
- (2) Marketing requirements necessary to attract foreign depositors;
- (3) Changes necessary in Hawaii law to attract foreign depositors and deter possible criminal activity including requirements for depositor privacy, disclosure, asset protection, creditor judgment protection, and anti-money laundering safeguards;
- (4) Costs involved in administering a foreign capital depositories law, including rule drafting, personnel, training, and other necessary expenses;
- (5) Expected benefits, financial or otherwise, that may accrue to the State;
- (6) Changes necessary, using the Montana law on foreign capital depositories as a starting point for consideration, to conform the law to Hawaii law;
- (7) Identification and separation of pertinent issues for purposes of drafting statutes and rules;
- (8) Identification of potential uses of foreign capital depositories to commit violations of state criminal laws and any changes in statutes, rules, or procedures needed to prevent such use;
- (9) Examination of other legal entities or mechanisms including dynasty trusts, that would serve the same purpose as a depository, or similar purposes;
- (10) Tax treatment of foreign capital depositories; and
- (11) Any other objective deemed necessary by the director of business, economic development, and tourism or the task force.

SECTION 3. The director of business, economic development, and tourism, in consultation with the task force, shall submit a report to the legislature, including

findings, recommendations, and implementing draft legislation no later than twenty days prior to the convening of the regular session of 1999.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 7, 1998.)

## ACT 155

S.B. NO. 2836

A Bill for an Act Relating to Insurance Fraud.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431:2-204, Hawaii Revised Statutes, is amended to read as follows:

**“§431:2-204 Commissioner’s power to subpoena.** (a) The commissioner, either on the commissioner’s own behalf or on behalf of any interested party, may take depositions, and subpoena witnesses or documentary evidence. The commissioner may administer oaths, and examine under oath any individual relative to the affairs of any person being examined, or relative to the subject of any hearing or investigation.

(b) The subpoena shall have the same force and effect and shall be served in the same manner as if issued from a court of record.

(c) Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a court of record. Witness fees, mileage, and the actual expense necessarily incurred in securing attendance of witnesses and their testimony shall be itemized, and shall be paid by the person as to whom the examination is being made, or by the person if other than the commissioner, at whose request the hearing is held.

(d) When the commissioner, through the insurance fraud investigations unit, is conducting an investigation of possible violations of section 431:10C-307.7, the commissioner shall pay to a financial institution that is served a subpoena issued under this section a fee for reimbursement of such costs as are necessary and which have been directly incurred in searching for, reproducing, or transporting books, papers, documents, or other objects designated by the subpoena. Reimbursement shall be paid at a rate not to exceed the rate set forth in section 28-2.5(d).”

SECTION 2. Section 431:10C-307.7, Hawaii Revised Statutes, is amended to read as follows:

**“[[§431:10C-307.7] Fraud violations and] Insurance fraud; penalties.** (a) A [fraudulent insurance act, under this article, shall include acts or omissions committed by any person who intentionally attempts] person commits the offense of insurance fraud if the person acts or omits to act with intent to obtain benefits or recovery or compensation for services provided, or provides legal assistance or counsel with intent to obtain benefits or recovery, through the following means:

- (1) [Presenting,] Knowingly presenting, or causing or permitting to be presented, any [intentionally] false information on a claim;
- (2) [Presenting,] Knowingly presenting, or causing or permitting to be presented, any [intentionally] false claim for the payment of a loss;
- (3) [Presenting] Knowingly presenting, or causing or permitting to be presented, multiple claims for the same loss or injury, including pre-

sending multiple claims to more than one insurer, except when these multiple claims are appropriate;

- (4) [~~Making,~~] Knowingly making, or causing or permitting to be made, any [~~intentionally~~] false claim for payment of a health care benefit;
  - (5) [~~Submitting~~] Knowingly submitting, or causing or permitting to be submitted, a claim for a health care benefit that was not used by, or provided on behalf of, the claimant;
  - (6) [~~Presenting inappropriate~~] Knowingly presenting, or causing or permitting to be presented, multiple claims for payment of the same health care benefit[;] except when these multiple claims are appropriate;
  - (7) [~~Presenting~~] Knowingly presenting, or causing or permitting to be presented, for payment any undercharges for benefits on behalf of a specific claimant unless any known overcharges for benefits under this article for that claimant are presented for reconciliation at [that] the same time;
  - (8) [~~Assisting, abetting,~~] Aiding, or agreeing or attempting to aid, soliciting, or conspiring with any person who engages in an unlawful act as defined under this section; or
  - (9) [~~Making~~] Knowingly making, or causing or permitting to be made, any [~~intentionally~~] false statements or claims by, or on behalf of, any person or persons [with regard to obtaining legal recovery or benefits.] during an official proceeding as defined by section 710-1000.
- (b) Violation of subsection (a) is a criminal offense and shall constitute a:
- (1) Class [C] B felony if the value of the [moneys] benefits, recovery, or compensation obtained or attempted to be obtained is more than [~~\$2,000;~~] \$20,000;
  - (2) Class C felony if the value of the benefits, recovery, or compensation obtained or attempted to be obtained is more than \$300; or
  - [(2)] (3) Misdemeanor if the value of the [moneys] benefits, recovery, or compensation obtained [or denied] or attempted to be obtained is less than [~~\$2,000;~~ or] \$300.
  - [(3)] Petty misdemeanor if the providing of intentionally false information did not cause any monetary loss to any person.]

(c) Where the ability to make restitution can be demonstrated, any person [subject to a criminal penalty] convicted under this section shall be ordered by a court to make restitution to an insurer or any other person for any financial loss sustained by the insurer or other person caused by the [~~intentionally false act.~~] act or acts for which the person was convicted.

(d) A person, if acting without malice, shall not be subject to [criminal or] civil liability for [cooperating with authorities or any court order,] providing information, including filing a report, furnishing oral or written evidence, or giving testimony, or information] concerning suspected, anticipated, or completed insurance fraud to a court, the commissioner, the insurance fraud investigations unit, the National Association of Insurance Commissioners, [or] any federal, state, or county law enforcement or regulatory agency, or another insurer if the information is provided only for the purpose of preventing, investigating, or prosecuting insurance fraud [under this section], except if the person commits perjury.

(e) This section shall not supersede any other law relating to theft, fraud, or deception. [A violation of this section] Insurance fraud may be prosecuted under this section, or any other applicable section[.], and may be enjoined by a court of competent jurisdiction.

(f) An insurer shall have a civil cause of action to recover payments or benefits from any person who has intentionally obtained payments or benefits in

violation of this section; provided that no recovery shall be allowed if the person has made restitution under subsection (c).

(g) All applications for insurance under this article and all claim forms provided and required by an insurer, regardless of the means of transmission, shall contain, or have attached to them, the following or a substantially similar statement, in a prominent location and typeface as determined by the insurer: “For your protection, Hawaii law requires you to be informed that presenting a fraudulent claim for payment of a loss or benefit is a crime punishable by fines or imprisonment, or both.” The absence of such a warning in any application or claim form shall not constitute a defense to a charge of insurance fraud under this section.

(h) An insurer, or the insurer’s employee or agent, having determined that there is reason to believe that a claim is being made in violation of this section, shall provide to the insurance fraud investigations unit within sixty days of that determination, information, including documents and other evidence, regarding the claim in the form and manner prescribed by the unit. Information provided pursuant to this subsection shall be protected from public disclosure to the extent authorized by chapter 92F and section 431:2-209; provided that the unit may release the information in an administrative or judicial proceeding to enforce this section, to a federal, state, or local law enforcement or regulatory authority, to the National Association of Insurance Commissioners, or to an insurer aggrieved by the claim reasonably believed to violate this section.”

SECTION 3. Section 431:10C-307.8, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) The unit shall employ attorneys, investigators, investigator assistants, and other support staff as necessary to promote the effective and efficient conduct of the unit’s activities. Notwithstanding any other law to the contrary, the attorneys may represent the State in any judicial or administrative proceeding to enforce all applicable state laws relating to insurance fraud, including but not limited to criminal prosecutions and actions for declaratory and injunctive relief. Investigators may serve process and apply for and execute search warrants pursuant to chapter 803 and the rules of court but shall not otherwise have the powers of a police officer or deputy sheriff. The commissioner may hire such employees not subject to chapters 76 and 77.

(c) The purpose of the insurance fraud [[investigations]] unit shall be to conduct a statewide program for the prevention, investigation, and prosecution of insurance fraud cases and violations of all applicable state laws relating to insurance fraud. The insurance fraud [[investigations]] unit may also review and take appropriate action on complaints relating to insurance fraud.”

SECTION 4. Section 712A-4, Hawaii Revised Statutes, is amended to read as follows:

**“§712A-4 Covered offenses.** Offenses for which property is subject to forfeiture under this chapter are:

- (a) All offenses which specifically authorize forfeiture;
- (b) Murder, kidnapping, gambling, criminal property damage, robbery, bribery, extortion, theft, burglary, money laundering, trademark counterfeiting, insurance fraud, promoting a dangerous, harmful, or detrimental drug, or commercial promotion of marijuana, which is chargeable as a felony offense under state law;
- (c) The manufacture, sale, or distribution of a controlled substance in violation of chapter 329, promoting detrimental drugs or intoxicating

compounds, promoting pornography, promoting pornography for minors, or promoting prostitution, which is chargeable as a felony or misdemeanor offense, but not as a petty misdemeanor, under state law; and

- (d) The attempt, conspiracy, solicitation, coercion, or intimidation of another to commit any offense for which property is subject to forfeiture.”

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved July 7, 1998.)

**ACT 156**

S.B. NO. 2259

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

**PART I.**

SECTION 1. The legislature finds that the visitor industry brings almost seven million visitors into the State every year. It accounts for almost twenty-five per cent of the gross state product and provides over thirty per cent of all civilian jobs. In light of the State’s dependence on tourism, it is extremely important that the development, marketing, and research of this industry be coordinated in a manner consistent with the needs of the State.

As part of its revitalization plan for the State, the economic revitalization task force recommended that funds for tourism come from a dedicated source. The task force proposed that such a funding source be established by raising the transient accommodations tax (TAT) and earmarking part of the total revenue from the TAT to create a special fund for tourism. The task force further recommended that an executive board be established to oversee this special fund. Tourism-related data collection and basic research would be conducted by the department of business, economic development, and tourism.

The purpose of this Part is to implement recommendations of the economic revitalization task force, convened by the governor, the president of the senate, and the speaker of the house of representatives related to tourism and economic development, and to increase the transient accommodations tax and amend the distribution of transient accommodations tax revenues.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:



**“CHAPTER  
HAWAII TOURISM AUTHORITY  
PART I. GENERAL PROVISIONS**

**§ -1 Definitions.** As used in this chapter:

“Agency” means any agency, department, authority, board, commission, the University of Hawaii, or any other unit of the State or its political subdivisions.

“Authority” means the Hawaii tourism authority established in section

-2.

“Board” means the board of directors of the Hawaii tourism authority established in section -2, and any successor thereto.

“Public agency” means any office, department, board, commission, bureau, division, public corporation agency, or instrumentality of the federal, state, or county government.

**§ -2 Hawaii tourism authority; establishment; board; staff.** (a) There is established the Hawaii tourism authority, which shall be a body corporate and a public instrumentality of the State, for the purpose of implementing this chapter. The authority shall be placed within the department of business, economic development, and tourism for administrative purposes only.

(b) The authority shall be headed by a board of directors which consists of ten public, voting members, one public, nonvoting member, one ex officio voting member, and one ex officio nonvoting member; provided that:

- (1) Ten public, voting members shall be appointed by the governor as provided in section 26-34, except as otherwise provided by law;
- (2) The ten public, voting members shall be composed of one representative each from the city and county of Honolulu and the counties of Hawaii, Kauai, and Maui; the remaining public members shall be appointed at-large;
- (3) Of the ten public, voting members, two shall be appointed by the governor from a list of three names nominated by the president of the senate, and two shall be appointed by the governor from a list of three names nominated by the speaker of the house of representatives;
- (4) At least six of the ten public, voting members shall have knowledge, experience, and expertise in the area of visitor industry management, marketing and promotion;
- (5) The governor shall make appointments to ensure the fulfillment of all requirements;
- (6) The director of business, economic development, and tourism, or a designated representative, shall be an ex officio voting member;
- (7) The director of transportation or a designated representative, shall be an ex officio nonvoting member; and
- (8) The governor shall appoint a public, nonvoting member.

(c) The public members shall be appointed by the governor for terms of four years, except that the terms of the members first appointed shall be for two and four years, respectively, as designated by the governor at the time of appointment. Each public member shall hold office until the member’s successor is appointed and qualified. Section 26-34 shall be applicable insofar as it relates to the number of terms and consecutive number of years a member may serve on the board.

(d) The board shall elect a chairperson from among the voting members. The director of business, economic development, and tourism shall not be chairperson of the board.

(e) Six voting members shall constitute a quorum, whose affirmative vote shall be necessary for all actions by the authority. The members shall serve without

compensation, but shall be reimbursed for expenses, including traveling expenses, necessary for the performance of their duties.

(f) The board shall appoint an executive director, exempt from chapters 76 and 77, who shall oversee the authority staff, and shall be compensated at a salary level set by the governor.

(g) The authority may employ persons not subject to chapters 76, 77, and 78 to perform and execute the functions of the authority.

§ **-3 Powers.** Except as otherwise limited by this chapter, the board may:

- (1) Sue and be sued;
- (2) Have a seal and alter the same at pleasure;
- (3) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter, provided that the authority may enter into contracts and agreements for a period of up to five years;
- (4) Make and alter bylaws for its organization and internal management;
- (5) Adopt rules in accordance with chapter 91 with respect to its projects, operations, properties, and facilities;
- (6) Through its executive director represent the authority in communications with the governor and with the legislature;
- (7) Through its executive director appoint officers, agents, and employees, prescribe their duties and qualifications, and fix their salaries, without regard to chapters 76, 77, and 78;
- (8) Through its executive director purchase supplies, equipment, or furniture;
- (9) Through its executive director allocate the space or spaces which are to be occupied by the authority and appropriate staff;
- (10) Engage the services of qualified persons to implement the State's tourism marketing plan or portions thereof as determined by the board;
- (11) Engage the services of consultants on a contractual basis for rendering professional and technical assistance and advice;
- (12) Procure insurance against any loss in connection with its property and other assets and operations in such amounts from such insurers as it deems desirable;
- (13) Contract for, and accept gifts or grants in any form from any public agency or any other source;
- (14) Create a vision and develop a long range plan for tourism in Hawaii, including product development, infrastructure, and diversification issues;
- (15) Develop, coordinate, and implement state policies and directions for tourism and related activities taking into account the economic, social, and physical impacts of tourism on the State;
- (16) Develop and implement the state tourism strategic marketing plan, which shall be updated every three years, to promote and market the State as a desirable visitor destination;
- (17) Have a permanent, strong focus on marketing and promotion;
- (18) Conduct market development-related research as necessary;
- (19) Coordinate all agencies and advise the private sector in the development of tourism-related activities and resources;
- (20) Work to eliminate or reduce barriers to travel in order to provide a positive and competitive business environment, including coordinating with the department of transportation on issues affecting airlines and air route development;
- (21) Market and promote sports-related activities and events;

- (22) Coordinate the development of new products with the public and private sectors, including the development of sports, culture, health, education, business, and eco-tourism;
- (23) Establish a public information and educational program to inform the public of tourism and tourism-related problems;
- (24) Encourage the development of tourism educational, training, and career counseling programs;
- (25) Establish a program to monitor, investigate, and respond to complaints about problems resulting directly or indirectly from the tourism industry and taking appropriate action as necessary; and
- (26) Do any and all things necessary to carry out its purposes and exercise the powers given and granted in this chapter.

§ **-4 Meetings of the board.** (a) The meetings of the board shall be open to the public as provided in section 92-3, except that when it is necessary for the board to receive information that is proprietary to a particular enterprise or the disclosure of which might be harmful to the business interests of the enterprise, the board may enter into an executive meeting that is closed to the public.

(b) The board shall be subject to the procedural requirements of section 92-4, and this authorization shall be in addition to the exceptions listed in section 92-5, to enable the authority board to respect the proprietary requirements of enterprises with which it has business dealings.

§ **-5 Exemption of Hawaii tourism authority from administrative supervision of boards and commissions.** Notwithstanding any law to the contrary, the authority shall be exempt from section 26-35 with the exception of section 26-35(2), (3), (7) and (8).

§ **-6 Tourism marketing plan; measures of effectiveness.** (a) The authority shall be responsible for developing a strategic tourism marketing plan which shall be updated every three years, that includes the following:

- (1) Identification and evaluation of current and future tourism needs for the different regions of the State;
- (2) Goals and objectives in accordance with identified needs;
- (3) Statewide promotional efforts and programs;
- (4) Targeted markets;
- (5) Efforts to enter into brand marketing projects that make effective use of cooperative advertising programs;
- (6) Measures of effectiveness for the authority's promotional programs; and
- (7) Coordination of marketing plans of all destination marketing organizations receiving state funding prior to finalization of the authority's marketing plan.

(b) In accordance with subsection (a), the authority shall be responsible for developing measures of effectiveness to assess the overall benefits and effectiveness of the marketing plan and include documentation of the directly attributable benefits of the plan to the following:

- (1) Hawaii's tourism industry;
- (2) Employment in Hawaii;
- (3) State taxes; and
- (4) The State's lesser known and underutilized destinations.

§ **-7 Tourism-related activities.** (a) The authority may enter into contracts and agreements that include the following:

- (1) Tourism promotion, marketing, and development;
- (2) Market development-related research;
- (3) Product development and diversification issues;
- (4) Promotion, development, and coordination of sports-related activities and events;
- (5) Reduction of barriers to travel;
- (6) Tourism public information and educational programs;
- (7) Programs to monitor and investigate complaints about the problems resulting from the tourism industry in the State; and
- (8) Any and all other activities necessary to carry out the intent of this chapter;

provided that for the purposes of continuity, the Hawaii Visitors and Convention Bureau shall be the designated agency to conduct the marketing and promotion of the State until the end of fiscal year 1998-1999 or until a date specified by the board.

(b) The authority staff shall be responsible for monitoring and facilitating any and all functions developed in accordance with subsection (a).

## PART II. TOURISM SPECIAL FUND; EXEMPTIONS; REPORTS

§ -11 **Tourism special fund.** (a) There is established in the state treasury the tourism special fund, into which shall be deposited:

- (1) A portion of the revenues from any transient accommodations tax, as provided by section 237D-6.5; and
- (2) Appropriations by the legislature to the tourism special fund; and
- (3) Gifts, grants, and other funds accepted by the authority.

(b) Moneys in the tourism special fund may be placed in interest-bearing accounts or otherwise invested by the authority until such time as the moneys may be needed. All interest accruing from the investment of these moneys shall be credited to the tourism special fund.

(c) Moneys in the tourism special fund shall be used by the authority for the purposes of this chapter, provided that not more than three per cent of this amount shall be used for administrative expenses; provided further that of this amount the sum of \$15,000 shall be made available for a protocol fund to be expended at the discretion of the executive director; provided further that moneys in the tourism special fund shall be used for the salaries and expenses of the office of tourism established in section 201-92.

§ -12 **Exemption of authority from taxation and Hawaii public procurement code.** (a) All revenues and receipts derived by the authority from any project or a project agreement or other agreement pertaining thereto shall be exempt from all state taxation. Any right, title, and interest of the authority in any project shall also be exempt from all state taxation. Except as otherwise provided by law, the interest of a qualified person or other user of a project or a project agreement or other agreements related to a project shall not be exempt from taxation to a greater extent than it would be if the costs of the project were directly financed by the qualified person or user.

(b) The authority shall not be subject to chapter 103D and any and all other requirements of law for competitive bidding for project agreements, construction contracts, lease and sublease agreements, or other contracts unless a project agreement with respect to a project otherwise shall require.

§ -13 **Assistance by state and county agencies.** Any state or county agency may render services upon request of the authority.

§ **-14 Declaration of public function, purpose, and necessity.** The powers and functions granted to and exercised by the Hawaii tourism authority under this chapter are declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity.

§ **-15 Court proceedings; preferences; venue.** Any action or proceeding to which the authority, the State, or the county may be a party, in which any question arises as to the validity of this chapter, shall be preferred over all other civil cases, except election cases, in any court of this State and shall be heard and determined in preference to all other civil cases pending therein except election cases, irrespective of position on the calendar. The same preference shall be granted upon application of counsel to the authority in any action or proceeding questioning the validity of this chapter in which the authority may be allowed to intervene. In addition to the preference provided in this section, any action or proceeding to which the authority, the State, or the county may be party, in which any question arises as to the validity of this chapter or any portion of this chapter, or any action of the authority may be filed in the supreme court of the State, which court is hereby vested with original jurisdiction over the action. Notwithstanding any provision of law to the contrary, declaratory relief from the supreme court may be obtained for any action.

§ **-16 Annual report.** The authority shall submit a complete and detailed report of its activities, expenditures, and results to the governor and the legislature at least twenty days prior to the convening of each regular session of the legislature.”

SECTION 3. Chapter 201, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§201- **Hawaii tourism authority.** For the period beginning January 1, 1999, and for each year thereafter, the office of tourism shall provide assistance to the Hawaii tourism authority established in section -2.”

SECTION 4. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

“§36-27 **Transfers from special funds for central service expenses.** Except as provided in this section, and notwithstanding any other law to the contrary, from time to time the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special summer school and intersession fund under section 302A-1310;
- (2) School cafeteria special funds of the community colleges and the department of education;
- (3) Special funds of the student housing, summer session, college of continuing education and community service, campus center, Kau‘iokahaloa Iki faculty housing development, and bookstores of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center capital special fund under section 206X-10.5 and the convention center operations special fund under section 206X-10.6;
- (6) Special funds established by section 206E-6;
- (7) Housing loan program revenue bond special fund;
- (8) Housing project bond special fund;
- (9) Aloha Tower fund created by section 206J-17;
- (10) Domestic violence prevention special fund under section 321-1.3;

- (11) Spouse and child abuse special account under section 346-7.5;
- (12) Spouse and child abuse special account under section 601-3.6;
- (13) Funds of the employees' retirement system created by section 88-109;
- (14) Unemployment compensation fund established under section 383-121;
- (15) Hawaii hurricane relief fund established under chapter 431P;
- (16) The University of Hawaii tuition and fees special fund; [and]
- (17) Division of community hospitals' special funds; and
- (18) Tourism special fund established under section -8;

shall deduct five per cent of all receipts of all other special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year.”

SECTION 5. Section 36-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each special fund, except the:

- (1) Transportation use special fund established by section 261D-1;
- (2) Special summer school and intersession fund under section 302A-1310;
- (3) School cafeteria special funds of the community colleges, and the department of education;
- (4) Special funds of the student housing, summer session, college of continuing education and community service, campus center, Kau‘iokahaloa Iki faculty housing development and bookstores of the University of Hawaii;
- (5) State educational facilities improvement special fund;
- (6) Special funds established by section 206E-6;
- (7) Aloha Tower fund created by section 206J-17;
- (8) Domestic violence prevention special fund under section 321-1.3;
- (9) Spouse and child abuse special account under section 346-7.5;
- (10) Spouse and child abuse special account under section 601-3.6;
- (11) Funds of the employees' retirement system created by section [89-109;] 88-109;
- (12) Unemployment compensation fund established under section 383-121;
- (13) Hawaii hurricane relief fund established under chapter 431P;
- (14) Convention center capital special fund established under section 206X-10.5 and the convention center operations special fund established under section 206X-10.6;
- (15) The University of Hawaii tuition and fees special fund; [and]
- (16) Division of community hospitals' special funds; and
- (17) Tourism special fund established under section -8;

shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned.”

SECTION 6. Section 201-3, Hawaii Revised Statutes, is amended to read as follows:

**“§201-3 Specific research and promotional functions of the department.**

Without prejudice to its general functions and duties the department of business, economic development, and tourism shall have specific functions in the following areas:

- (1) Agricultural development. The department shall:
  - (A) Conduct surveys and feasibility studies to determine the need for and value of additional research in the production of agricultural commodities, and the processing and marketing of agricultural food products;
  - (B) Promote an informational program directed to the consuming public both in Hawaii and in the mainland United States relative to the qualities of agricultural commodities produced in Hawaii and in the maximum utilization of same, including processed agricultural food products; and
  - (C) Make grants to and contracts with appropriate agencies, firms, or individuals for surveys, studies, research, and promotion.

With respect to agricultural development, the department’s activities shall be consistent with the policies, programs, and activities of the board of agriculture and the agribusiness development corporation;

- (2) Industrial development. The department shall determine through technical and economic surveys the profit potential of new or expanded industrial undertakings; develop through research projects and other means new and improved industrial products and processes; promote studies and surveys to determine consumer preference as to design and quality and to determine the best methods of packaging, transporting, and marketing the State’s industrial products; disseminate information to assist the present industries of the State, to attract new industries to the State, and to encourage capital investment in present and new industries in the State; assist associations of producers and distributors of industrial products to introduce such products to consumers; and make such grants or contracts as may be necessary or advisable to accomplish the foregoing;
- (3) Land development. The department shall encourage the most productive use of all land in the State in accordance with a general plan developed by the department; encourage the improvement of land tenure practices on leased private lands; promote an informational program directed to landowners, producers of agricultural and industrial commodities, and the general public regarding the most efficient and most productive use of the lands in the State; and make such grants or contracts as may be necessary or advisable to accomplish the foregoing;
- (4) Credit development. The department shall conduct a continuing study of agricultural and industrial credit needs; encourage the development of additional private and public credit sources for agricultural and industrial enterprises; promote an informational program to acquaint financial institutions with agricultural and industrial credit needs and the potential for agricultural and industrial expansion, and inform producers of agricultural and industrial products as to the manner in which to qualify for loans; and make such grants or contracts as may be necessary or advisable to accomplish the foregoing; [and]

- (5) Promotion. The department shall disseminate information developed for or by the department pertaining to economic development to assist present industry in the State, attract new industry and investments to the State, and assist new and emerging industry with good growth potential or prospects in jobs, exports, and new products. The industrial and economic promotional activities of the department may include the use of literature, advertising, demonstrations, displays, market testing, lectures, travel, motion picture and slide films, and such other promotional and publicity devices as may be appropriate[.]; and
- (6) Tourism research and statistics. The department shall maintain a program of research and statistics for the purpose of:
  - (A) Measuring and analyzing tourism trends;
  - (B) Providing information and research to assist in the development and implementation of state tourism policy;
  - (C) Encouraging and arranging for the conduct of tourism research and information development through voluntary means or through contractual services with qualified agencies, firms, or persons; and
  - (D) Providing tourism information to policy makers, the public, and the visitor industry. This includes:
    - (i) Collecting and publishing visitor-related data including visitor arrivals, visitor characteristics and expenditures;
    - (ii) Collecting and publishing hotel-related statistics including the number of units available, occupancy rates, and room rates;
    - (iii) Collecting and publishing airline-related data including seat capacity and number of flights;
    - (iv) Collecting information and conducting analyses of the economic, social, and physical impacts of tourism on the State;
    - (v) Conducting periodic studies of the impact of ongoing marketing programs of the Hawaii tourism authority on Hawaii's tourism industry, employment in Hawaii, state taxes, and the State's lesser known and underutilized destinations; and
    - (vi) Cooperate with the Hawaii tourism authority and provide it with the above information in a timely manner.

The department shall be the central agency to coordinate film permit activities in the State.”

SECTION 7. Section 201-13.8 Hawaii Revised Statutes, is amended to read as follows:

“~~[[§201-13.8]]~~ **Data or information collection.** (a) The director, in consultation with all affected governmental agencies, shall assess the need for statistics and other information as to the number, characteristics, needs, and movement of people into, out of, or within Hawaii, including residents, migrants, and visitors, and such other information as the director may deem necessary, for the purposes of sound economic research and analysis. The director shall be responsible for collecting, analyzing, and disseminating such information to governmental agencies on a timely basis, and is authorized to use any appropriate method to collect the information, including but not limited to conducting an entry and exit census or survey of all individuals entering, leaving, or living within the State, and obtaining data or information acquired by other agencies, both public and private. All governmental agencies shall cooperate with and assist the director to implement this



section. The director may adopt necessary rules pursuant to chapter 91, to administer this section.

(b) To the extent that it is identifiable to an individual, information obtained by the department or its agents through surveys, questionnaires, or other information gathering efforts shall be held confidential and not disclosed or opened to public inspection, except that such information may be shared with other government agencies as provided in section 92F-19.

(c) Public disclosure of information gathered by the department could place businesses at a competitive disadvantage. Consequently, where disclosure would result in the impairment of the department's ability to obtain such information and the frustration of a legitimate government function, the department may withhold from public disclosure competitively sensitive information including:

- (1) Completed survey and questionnaire forms;
- (2) Coding sheets; and
- (3) Database records of such information.

(d) The director may adopt necessary rules pursuant to chapter 91, to administer this section.<sup>1</sup>

SECTION 8. Act 96, Session Laws of Hawaii 1988, as amended by Act 159, Session Laws of Hawaii 1992, as amended by Act 241, Session Laws of Hawaii 1993, and as amended by Act 75, Session Laws of Hawaii 1994, is amended to read:

“SECTION 3. This Act shall automatically expire on June 30, [1998.] 1999.

In the event any judicial or quasi-judicial proceeding is commenced regarding the validity of this Act or any section of this Act, or any action of the authority, the running of the period shall be suspended until a final nonappealable determination is made in the judicial or quasi-judicial proceeding.”

SECTION 9. There is appropriated out of the tourism special fund the sum of \$500,000 or so much thereof as may be necessary for fiscal year 1998-1999 for the conduct of the research specified in section 6 by the department of business, economic development, and tourism.

SECTION 10. The sum appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this Act.

SECTION 11. Section 235-17, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) There shall be allowed to each taxpayer subject to the taxes imposed by this chapter, an income tax credit which shall be deductible from the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed. The amount of the credit shall be up to [six per cent] 7.25 per cent effective January 1, 1999, of the costs incurred in the State in the production of motion picture or television films for actual expenditures for transient accommodations. The director of taxation shall specify by rule a schedule of allowable tax credits based on the principle that greater tax credits shall be allowed for greater benefits to the state economy.

In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for production costs incurred by the entity for the taxable year. The cost upon which the tax credit is computed shall be determined at the entity level.”

SECTION 12. (a) The auditor shall audit and monitor the progress made by the convention center authority in resolving various outstanding issues and problems

so as to assure the legislature that these issues have been addressed on or before the termination date of the authority. By February 28, 1999, the auditor shall submit a management audit report to the legislature on the effectiveness of the steps taken by the convention center authority to resolve traffic, noise, and other outstanding claims against the authority. The management audit may include financial audit issues that the auditor deems appropriate. An interim report on the progress being made by the convention center authority on the above issues shall be submitted by September 30, 1998.

(b) The department of business, economic development, and tourism may assume present visitor-research related contracts between the Hawaii visitors and convention bureau and individuals, agencies, or firms exempt from chapter 103D, Hawaii Revised Statutes.

SECTION 13. This Part shall take effect upon its approval, provided that sections 2 to 7 and 10 shall take effect on July 1, 1998; provided further that section 8 shall take effect on June 29, 1998; provided further that section 9 shall take effect on January 1, 1999; and provided further that section 11 shall apply to taxable years beginning after December 31, 1998.

PART II.

SECTION 14. The legislature finds that the purchase of a resort time share vacation unit is essentially a vacation purchase. In essence, the purchasers are sold a week or more in Hawaii either in perpetuity or for a fixed number of years, thereby saving money on vacations. The average Hawaii resort time share vacation purchaser purchases 1.6 weeks in Hawaii. The purchasers are transients in Hawaii, whether Hawaii residents or out-of-state residents, as the purchasers are occupying a transient accommodation. As legal commentator Mark E. Henze noted in The Law and Business of Time-Share Resorts: "The purchaser is essentially purchasing tomorrow's vacation at today's prices and dollars. The contract price is paid or financed all at once and there is no worry about skyrocketing hotel rentals or inflation."

The legislature finds that hotels are converted to nonownership time shares, where the time share developer retains the proprietary or fee interest in the project, and the time share owners retain a right to occupy the premises for a certain time period. On the other hand, the time share owner may own a fee interest limited to a certain time period. In either instance, a time share is merely interval ownership. Time share ownership is essentially a periodic vacation rental rather than conventional real estate ownership.

The legislature finds that resort time share vacation plans, which sell occupancy by temporal division, are similarly situated to hotels which rent occupancy for a limited time period rather than to condominiums which sell ownership interests in fee. Resort time share vacation purchasers may use exchange privileges between time share plans, which are similar to hotel upgrades.

The legislature finds that the constant turn over of transient individuals owning a resort time share vacation unit burdens state and county facilities in a manner similar to transient individuals occupying hotels. Resort time share vacation owners travel to and from airports, similar to transient individuals occupying hotels, thereby adding to the transportation burden on the State and the counties. Resort time share vacation owners use the roads for sightseeing in a manner similar to other hotel visitors. Resort time share vacation owners also add to the burden on police and fire protective services in the same manner as transient individuals occupying hotels.

The legislature finds that resort time share vacation owners are not similarly situated to condominium apartment owners. Resort time share vacation units are sold and marketed as hotel or vacation investments. Indeed, the State's time share law, section 514E-4, Hawaii Revised Statutes, explicitly recognizes that time share plans and units are "transient vacation rentals". When occupying their units, resort time share vacation owners are neither residents nor domiciliaries, but transient visitors similar to hotel visitors. Unlike resort time share vacation owners, the overwhelming majority of condominium apartment owners are residents of the State of Hawaii, occupying condominium apartments as their primary residence or domicile.

The legislature finds that despite the similar burdens imposed on state and county resources, resort time share vacation owners are not similarly taxed as other transients. Hotel visitors currently pay the transient accommodations tax that goes to assist counties to offset the burden these visitors place on county roads and services and to the State for tourism purposes. Unlike hotel visitors, transient resort time share vacation owners do not contribute their fair share of taxes. The transient accommodations tax is specifically imposed for the costs that transients impose on the State and the counties and to support tourism in Hawaii. The legislature finds that resort time share vacation owners are similar to transient occupants of hotels for tax purposes.

The legislature finds that the taxation of resort time share activities does not unduly burden interstate commerce. In fact, the United States Supreme Court has found that interstate commerce can be burdened under appropriate circumstances. The legislature finds that those circumstances exist. The taxation of resort time share activity in this Part has nexus because it will apply to resort time share activity which occurs wholly in Hawaii. The taxation of this activity is fairly apportioned because it only taxes time share activity which occurs wholly in Hawaii. The taxation of this activity does not discriminate because time share occupants are taxed regardless of whether the occupants are residents or nonresidents. Finally, the taxation of this activity is fairly related to the services provided by state and county governments in Hawaii.

The legislature finds that the transient accommodations tax should be imposed on the fair market rental value of the resort time share vacation unit occupied by the unit occupant. The legislature finds that the determination of the fair market rental value of a unit is fraught with difficulty. Comparing resort time share vacation units with similar hotel units does not appear advisable or feasible. Comparing similar resort time share vacation units, one rented and one occupied, may not be feasible since the rented unit may not be rented at fair market rental value. Instead, the rental may be determined to be sufficient if the rental charged covers the costs incurred by the owner in paying for the maintenance and other fees and costs involved with the unit. The legislature finds that maintenance fees attributable to the resort time share vacation unit may be used as a proxy for fair market rental value. Maintenance fees reflect the current and reasonably foreseeable costs, and therefore, to a great extent the fair market rental value of a resort time share vacation unit is reflected by maintenance, operations, insurance, repair, administration, taxes, and other costs and fees associated with resort time share vacation units.

The legislature finds that resort time share vacation unit owners are a subcategory of transient occupants.

The legislature also finds that the moneys from the taxation of transient occupancy will be used to offset the burdens transients and visitors place on the State and the counties. In addition, the moneys will be used to further promote Hawaii and tourism in Hawaii making Hawaii a more appealing destination. This will result in even more transients and visitors burdening the State and counties which must be paid for by those transient and visitors.

The purpose of this Part is to increase the transient accommodations tax, to amend the distribution of transient accommodations, and to tax the transient occupancy of resort time share vacation units under the transient accommodations tax in a manner similar to transients taxed on their hotel rental.

SECTION 15. Section 237D-1, Hawaii Revised Statutes, is amended by adding eight new definitions to read as follows:

“‘Department’ means the department of taxation.

‘Fair market rental value’ means an amount equal to one-half the gross daily maintenance fees that are paid by the owner, are attributable to the time share unit, and include maintenance costs, operational costs, insurance, repair costs, administrative costs, taxes, other than transient accommodations taxes, and other costs including payments required for reserves or sinking funds. The taxpayer shall use gross daily maintenance fees, unless the taxpayer proves or the director determines that the gross daily maintenance fees do not fairly represent fair market rental value taking into account comparable transient accommodation rentals or other appraisal methods.

‘Occupant’ means an owner of a resort time share vacation plan or other person occupying the resort time share vacation unit.

‘Owner’ means any person who owns a resort time share vacation interest; provided that to the extent and for those purposes provided in an agreement of sale, the vendee under the agreement of sale shall be considered the owner of the resort time share vacation interest.

‘Plan manager’ means a person who undertakes the duties, responsibilities, and obligations of managing a resort time share vacation plan or is required to act for a resort time share vacation plan under this chapter.

‘Resort time share vacation interest’ means any interest in a resort time share vacation unit or plan which entitles the owner thereof to the use, occupancy, or possession of a resort time share vacation unit on a periodically recurring basis.

‘Resort time share vacation plan’ means any plan or program subject to chapter 514E in which the use, occupancy, or possession of one or more resort time share vacation units circulates among various persons for less than a sixty-day period in any year, for any occupant. The term resort time share vacation plan includes both resort time share vacation ownership plans and resort time share vacation use plans, as follows:

- (1) ‘Resort time share vacation ownership plan’ means any arrangement whether by tenancy in common, sale, deed, or by other means, whereby the purchaser receives an ownership interest and the right to use the property for a specific or discernible period by temporal division.
- (2) ‘Resort time share vacation use plan’ means any arrangement, excluding normal hotel operations, whether by membership agreement, lease, rental agreement, license, use agreement, security, or other means, whereby the purchaser receives a right to use accommodations or facilities, or both, in a resort time share vacation unit for a specific or discernible period by temporal division, but does not receive an ownership interest.

‘Resort time share vacation unit’ means the actual and promised accommodations, and related facilities, which are the subject of a resort time share vacation plan.’

SECTION 16. Section 237D-2, Hawaii Revised Statutes, is amended to read as follows:

**“§237D-2 Imposition and rates.** (a) There is levied and shall be assessed and collected each month a tax of [five]:

- (1) Five per cent for the period beginning on January 1, 1987, to June 30, 1994[, and a tax of six];
- (2) Six per cent for the period beginning July 1, 1994, [and thereafter,] to December 31, 1998; and
- (3) 7.25 per cent for the period beginning on January 1, 1999, and thereafter;

on the gross rental or gross rental proceeds derived from furnishing transient accommodations.

(b) Every operator shall pay to the State the tax imposed by [this section] subsection (a) as provided in this chapter.

(c) There is levied and shall be assessed and collected each month on the occupant of a resort time share vacation unit, a transient accommodations tax of 7.25 per cent on the fair market rental value.

(d) Every plan manager shall be liable for and pay to the State the transient accommodations tax imposed by subsection (c) as provided in this chapter. Every resort time share vacation plan shall be represented by a plan manager who shall be subject to this chapter.”

SECTION 17. Section 237D-4, Hawaii Revised Statutes, is amended to read as follows:

**“§237D-4 Certificate of registration.** (a) Each operator or plan manager as a condition precedent to engaging or continuing in the business of furnishing transient accommodations or in business as a resort time share vacation plan shall register with the director the name and address of each place of business within the State subject to this chapter. The operator or plan manager shall make a one-time payment as follows:

- (1) \$5 for each registration for transient accommodations consisting of one to five units; [and]
- (2) \$15 for each registration for transient accommodations consisting of six or more units; and
- (3) \$15 for each resort time share vacation plan within the State;

upon receipt of which the director shall issue a certificate of registration in such form as the director determines, attesting that the registration has been made. The registration shall not be transferable and shall be valid only for the operator or plan manager in whose name it is issued and for the transaction of business at the place designated therein.

The registration, or in lieu thereof a notice stating where the registration may be inspected and examined, shall at all times be conspicuously displayed at the place for which it is issued. Acquisition of additional transient accommodation units after payment of the one-time fee shall not result in additional fees. [Any person registering or holding a certificate of registration under this chapter before January 1, 1990, shall pay a one-time registration fee according to the schedule in this subsection on or before January 31, 1990, as a condition precedent to engaging or continuing in business.

(b) The registration provided for by this section shall be effective until canceled in writing. Any application for the reissuance of a previously canceled registration identification number [after December 31, 1989,] shall be regarded as a new registration application and shall be subject to the payment of the one-time registration fee [in subsection (a)]. The director may revoke or cancel any license issued under this chapter for cause as provided by rule under chapter 91.

[(c)] (b) If the license fee is paid, the department shall not refuse to issue a registration or revoke or cancel a registration for the exercise of a privilege protected by the First Amendment of the Constitution of the United States, or for the carrying on of interstate or foreign commerce, or for any privilege the exercise of which, under the Constitution and laws of the United States, cannot be restrained on account of nonpayment of taxes, nor shall section 237D-14 be invoked to restrain the exercise of such a privilege, or the carrying on of such commerce.

[(d)] (c) Any person who may lawfully be required by the State, and who is required by this chapter, to register as a condition precedent to engaging or continuing in the business of furnishing transient accommodations or as a plan manager subject to taxation under this chapter, who engages or continues in the business without registering in conformity with this chapter, shall be guilty of a misdemeanor. Any director, president, secretary, or treasurer of a corporation who permits, aids, or abets such corporation to engage or continue in business without registering in conformity with this chapter, shall likewise be guilty of a misdemeanor. The penalty for the misdemeanors shall be that prescribed by section 231-34 for individuals, corporations, or officers of corporations, as the case may be, for violation of that section."

SECTION 18. Section 237D-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) On or before the last day of each calendar month, every operator taxable, or plan manager liable under this chapter during the preceding calendar month shall file a sworn return with the director in such form as the director shall prescribe together with a remittance for the amount of the tax in the form required by section 237D-6.5. Sections 237-30 and 237-32 shall apply to returns and penalties made under this chapter to the same extent as if the sections were set forth specifically in this section.”

SECTION 19. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) For the fiscal year beginning July 1, 1994, and for each fiscal year thereafter, until December 31, 1998, revenues collected under this chapter shall be distributed as follows:

- (1) One-sixth of the revenues collected under this chapter shall be deposited into the convention center capital special fund established under section 206X-10.5;
- (2) Of the remaining revenues, five per cent shall be retained by the State; and
- (3) Of the remainder, Kauai county shall receive 14.5 per cent; Hawaii county shall receive 18.6 per cent; city and county of Honolulu shall receive 44.1 per cent; and Maui county shall receive 22.8 per cent.

Beginning on January 1, 1999, revenues collected under this chapter shall be distributed as follows:

- (1) 17.3 per cent of the revenues collected under this chapter shall be deposited into the convention center capital special fund established under section 206X-10.5;
- (2) 37.9 per cent of the revenues collected under this chapter shall be deposited into the tourism special fund established under section  
-11;
- (3) 44.8 per cent of the revenues collected under this chapter shall be transferred as follows: Kauai county shall receive 14.5 per cent; Hawaii

county shall receive 18.6 per cent, city and county of Honolulu shall receive 44.1 per cent, and Maui county shall receive 22.8 per cent.

All transient accommodations taxes shall be paid into the state treasury each month within ten days after collection, and shall be kept by the state director of finance in special accounts for distribution as provided in this subsection.”

SECTION 20. Section 237D-7, Hawaii Revised Statutes, is amended to read as follows:

“**§237D-7 Annual return.** On or before the twentieth day of the fourth month following the close of the taxable year, every person who has become liable for the payment of the taxes under this chapter during the preceding tax year shall file a return summarizing that person’s liability under this chapter for the year, in such form as the director prescribes. The operator or plan manager shall transmit with the return a remittance covering the residue of the tax chargeable to the operator[,] or plan manager, if any, to the office of the appropriate state district tax assessor designated in section 237D-8. The return shall be signed by the taxpayer, if made by an individual, or by the president, vice-president, secretary, or treasurer of a corporation, if made on behalf of a corporation. If made on behalf of a partnership, firm, society, unincorporated association, group, hui, joint adventure, joint stock company, corporation, trust estate, decedent’s estate, trust, or other entity, any individual delegated by the entity shall sign the same on behalf of the taxpayer. If for any reason it is not practicable for the individual taxpayer to sign the return, it may be done by any duly authorized agent. The department, for good cause shown, may extend the time for making the return on the application of any taxpayer and grant such reasonable additional time within which to make the return as the department may deem advisable.

Section 232-2 applies to the annual return, but not to a monthly return.”

SECTION 21. Section 237D-7.5, Hawaii Revised Statutes, is amended by amending the title and subsection (a) to read as follows:

“**[§237D-7.5] Federal assessments; adjustments of gross rental [or], gross rental proceeds[;], or fair market rental value; report to the department.** (a) Any person required to report to the department by section 235-101(b), also shall report to the department any change, correction, adjustment, or recomputation of gross rental [or], gross rental proceeds, or fair market rental value subject to the tax imposed by this chapter. This report shall be made in the form of a return amending the person’s gross rental [or], gross rental proceeds, or fair market rental value as previously reported on a return filed with the department for the taxable year. If no return has been filed with the department for the taxable year, a return shall be filed and shall take into account any change, correction, adjustment, or recomputation of gross rental [or], gross rental proceeds[.], or fair market rental value.”

SECTION 22. Section 237D-8, Hawaii Revised Statutes, is amended to read as follows:

“**§237D-8 Filing of returns.** All monthly, quarterly, semiannual, and annual returns shall be transmitted to the office of the taxation district in which the [transient accommodation upon which the tax is imposed is situated] taxes arose or to the office of the first taxation district in Honolulu.”

SECTION 23. Section 237D-8.6, Hawaii Revised Statutes, is amended to read as follows:

“[[§237D-8.6]] Reconciliation; form requirement. (a) On or before the twentieth day of the fourth month following the close of the taxable year, every person who has become liable for the payment of taxes under this chapter during the preceding taxable year and who has furnished transient accommodations which were exempt, for any portion of the taxable year, from the tax imposed under this chapter, shall file a reconciliation for transient accommodations as prescribed by the director indicating the amount of gross income that was subject to such tax and the amount that was subject to the general excise tax imposed under chapter 237.

(b) On or before the twentieth day of the fourth month following the close of the taxable year, every plan manager who has become liable for the payment of taxes under this chapter during the preceding taxable year shall file a reconciliation indicating the period of time that the owner of a resort time share vacation unit was subject to the general excise tax or the tax under section 237D-2(a).”

SECTION 24. Section 237D-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) If any operator or plan manager fails to make a return as required by this chapter, the director shall make an estimate of the tax liability of the operator or plan manager from any information the director obtains, and according to the estimate so made, assess the taxes, interest, and penalty due the State from the operator[, ] or plan manager, give notice of the assessment to the operator[, ] or plan manager, and make demand upon the operator or plan manager for payment. The assessment shall be presumed to be correct until and unless, upon an appeal duly taken as provided in section 237D-11, the contrary shall be clearly proved by the person assessed, and the burden of proof upon such appeal shall be upon the person assessed to disprove the correctness of assessment.”

SECTION 25. Section 237D-10, Hawaii Revised Statutes, is amended to read as follows:

“§237D-10 Overpayment; refunds. Upon application by an operator[, ] or plan manager, if the director determines that any tax, interest, or penalty has been paid more than once, or has been erroneously or illegally collected or computed, the tax, interest, or penalty shall be credited by the director on any taxes then due from the operator or plan manager under this chapter. The director shall refund the balance to the operator or plan manager or the operator’s or plan manager’s successors, administrators, executors, or assigns in accordance with section 231-23. No credit or refund shall be allowed for any tax imposed by this chapter, unless a claim for such credit or refund is filed as follows:

- (1) If an annual return is timely filed, or is filed within three years after the date prescribed for filing the annual return, then the credit or refund shall be claimed within three years after the date the annual return was filed or the date prescribed for filing the annual return, whichever is later.
- (2) If an annual return is not filed, or is filed more than three years after the date prescribed for filing the annual return, a claim for credit or refund shall be filed within:
  - (A) Three years after the payment of the tax; or
  - (B) Three years after the date prescribed for the filing of the annual return,
 whichever is later.

Paragraphs (1) and (2) are mutually exclusive. The preceding limitation shall not apply to a credit or refund pursuant to an appeal, provided for in section 237D-11.



As to all tax payments for which a refund or credit is not authorized by this section (including, without prejudice to the generality of the foregoing, cases of unconstitutionality), the remedies provided by appeal or by section 40-35 are exclusive.”

SECTION 26. Section 237D-12, Hawaii Revised Statutes, is amended to read as follows:

**“§237D-12 Records to be kept; examination.** Every operator and plan manager shall keep in the English language within the State, and preserve for a period of three years, suitable records of gross rental [or], gross rental proceeds, or fair market rental value relating to [transient accommodations] the business taxed under this chapter, and such other books, records of account, and invoices as may be required by the department [of taxation], and all such books, records, and invoices shall be open for examination at any time by the department or the Multistate Tax Commission pursuant to chapter 255, or the authorized representative thereof.”

SECTION 27. Section 237D-14, Hawaii Revised Statutes, is amended to read as follows:

**“§237D-14 Collection by suit; injunction.** The department [of taxation] may collect taxes due and unpaid under this chapter, together with all accrued penalties, by action in assumpsit or other appropriate proceedings in the circuit court of the judicial circuit in which the taxes arose. After delinquency shall have continued for sixty days, or if any person lawfully required so to do under this chapter shall fail to apply for and secure a certificate as provided by this chapter for a period of sixty days after the first date when the person was required under this chapter to secure the certificate, the department may proceed in the circuit court of the judicial circuit in which the transient accommodations or in which occupants of resort time share vacation units are taxed, to obtain an injunction restraining the further furnishing of transient accommodations or the operation of the resort time share vacation plan until full payment shall have been made of all taxes and penalties and interest due under this chapter, or until such certificate is secured, or both, as the circumstances of the case may require.”

SECTION 28. Section 237D-15, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In order to determine if the tax under this chapter is to be levied, assessed, and collected upon transient accommodations the following presumptions shall control.

- (1) If a person lets a transient accommodation for less than one hundred eighty consecutive days, it shall be presumed that the accommodation furnished is for a transient purpose.
- (2) If a person lets a transient accommodation for one hundred eighty days or more, there is no presumption one way or another as to the purpose for which the accommodation is furnished.

The operator shall have the burden of proving to the department whether an accommodation is not being furnished for a transient purpose. If the department is satisfied that an accommodation is not furnished for a transient purpose, then the department shall not levy any tax under this chapter. The department shall adopt rules to implement this section.”

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SECTION 29. Section 514E-3, Hawaii Revised Statutes, is amended to read as follows:

“**§514E-3 Taxation.** (a) The plan manager, if any, shall collect and pay real property and transient accommodations taxes due on the time share units or occupants under the plan manager’s authority as the agent of the owners of the individual units or temporal divisions thereof. The liability of the individual owners of the units, or temporal division thereof, for real property taxes, shall be primary to all parties except the plan manager. The right to contest or appeal any real property or transient accommodations tax assessment shall apply to the plan manager and any person having an interest in a time share unit.

(b) The acquisition agent and sales agent shall maintain records pertaining to the general excise tax of any independent contractors employed by them, their addresses and commissions paid during each calendar year. The plan manager shall maintain records of the general excise [tax] and transient accommodations taxes due and owing with respect to any occupants or time share units under the plan manager’s management. The records for any year shall be retained for at least two years and be available for inspection by the director or the director of taxation.”

SECTION 30. This Part, upon its approval, shall take effect on January 1, 1999.

### PART III.

SECTION 31. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 32. This Act, subject to the effective dates in Parts I and II of this Act, shall take effect upon its approval.

(Approved July 9, 1998.)

#### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

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H.B. NO. 2749

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§235- Low-income refundable tax credit.** (a) Each resident individual taxpayer, who files an individual income tax return for a taxable year, and who is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for federal or Hawaii state individual income tax purposes, may claim a refundable low-income tax credit against the resident taxpayer’s individual income tax liability for the taxable year for which the individual income tax return is being filed; provided that a resident individual who has no income or no income taxable under this chapter and who is not claimed or is not otherwise eligible to be claimed as a

dependent by a taxpayer for federal or Hawaii state individual income tax purposes may claim this credit.

(b) Each resident individual taxpayer may claim a refundable low-income tax credit multiplied by the number of qualified exemptions to which the taxpayer is entitled in accordance with the table below; provided that a husband and wife filing separate tax returns for a taxable year for which a joint return could have been filed by them shall claim only the tax credit to which they would have been entitled had a joint return been filed.

Adjusted gross income	Credit per exemption
Under \$10,000	\$35
\$10,000 under \$15,000	25
\$15,000 under \$20,000	10
Over \$20,000	0

(c) For the purposes of this section, a qualified exemption is defined to include those exemptions permitted under this chapter; provided that no additional exemption may be claimed by a taxpayer who is sixty-five years of age or older; provided that a person for whom exemption is claimed has physically resided in the State for more than nine months during the taxable year; and provided further that multiple exemptions shall not be granted because of deficiencies in vision or hearing, or other disability. For purposes of claiming this credit only, a minor child receiving support from the department of human services of the State, social security survivor's benefits, and the like, may be considered a dependent and a qualified exemption of the parent or guardian.

(d) The tax credit under this section shall not be available to:

- (1) Any person who has been convicted of a felony and who has been committed to prison and has been physically confined for the full taxable year;
- (2) Any person who would otherwise be eligible to be claimed as a dependent but who has been committed to a youth correctional facility and has resided at the facility for the full taxable year; or
- (3) Any misdemeanor who has been committed to jail and has been physically confined for the full taxable year.

(e) The tax credits claimed by a resident taxpayer pursuant to this section shall be deductible from the resident taxpayer's individual income tax liability, if any, for the tax year in which they are properly claimed. If the tax credits claimed by a resident taxpayer exceed the amount of income tax payment due from the resident taxpayer, the excess of credits over payments due shall be refunded to the resident taxpayer; provided that tax credits properly claimed by a resident individual who has no income tax liability shall be paid to the resident individual; and provided further that no refunds or payment on account of the tax credits allowed by this section shall be made for amounts less than \$1.

(f) All claims for tax credits under this section, including any amended claims, shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credits may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit."

SECTION 2. Section 235-51, Hawaii Revised Statutes, is amended to read as follows:

**“§235-51 Tax imposed on individuals; rates.** (a) There is hereby imposed on the taxable income of (1) every taxpayer who files a joint return under section

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235-93; and (2) every surviving spouse a tax determined in accordance with the following table:

In the case of any taxable year beginning after December 31, [1988:] 1998:

If the taxable income is:	The tax shall be:
[Not over \$3,000	2% of taxable income
Over \$3,000 but not over \$5,000	\$60.00 plus 4% of excess over \$3,000
Over \$5,000 but not over \$7,000	\$140.00 plus 6% of excess over \$5,000
Over \$7,000 but not over \$11,000	\$260.00 plus 7.25% of excess over \$7,000
Over \$11,000 but not over \$21,000	\$550.00 plus 8% of excess over \$11,000
Over \$21,000 but not over \$31,000	\$1,350.00 plus 8.75% of excess over \$21,000
Over \$31,000 but not over \$41,000	\$2,225.00 plus 9.5% of excess over \$31,000
Over \$41,000	\$3,175.00 plus 10% of excess over \$41,000]
<u>Not over \$4,000</u>	<u>1.60% of taxable income</u>
<u>Over \$4,000 but not over \$8,000</u>	<u>\$64.00 plus 3.90% of excess over \$4,000</u>
<u>Over \$8,000 but not over \$16,000</u>	<u>\$220.00 plus 6.80% of excess over \$8,000</u>
<u>Over \$16,000 but not over \$24,000</u>	<u>\$764.00 plus 7.20% of excess over \$16,000</u>
<u>Over \$24,000 but not over \$32,000</u>	<u>\$1,340.00 plus 7.50% of excess over \$24,000</u>
<u>Over \$32,000 but not over \$40,000</u>	<u>\$1,940.00 plus 7.80% of excess over \$32,000</u>
<u>Over \$40,000 but not over \$60,000</u>	<u>\$2,564.00 plus 8.20% of excess over \$40,000</u>
<u>Over \$60,000 but not over \$80,000</u>	<u>\$4,204.00 plus 8.50% of excess over \$60,000</u>
<u>Over \$80,000</u>	<u>\$5,904.00 plus 8.75% of excess over \$80,000</u>

In the case of any taxable year beginning after December 31, 2000:

<u>If the taxable income is:</u>	<u>The tax shall be:</u>
<u>Not over \$4,000</u>	<u>1.50% of taxable income</u>
<u>Over \$4,000 but not over \$8,000</u>	<u>\$60.00 plus 3.70% of excess over \$4,000</u>
<u>Over \$8,000 but not over \$16,000</u>	<u>\$208.00 plus 6.40% of excess over \$8,000</u>
<u>Over \$16,000 but not over \$24,000</u>	<u>\$720.00 plus 6.90% of excess over \$16,000</u>
<u>Over \$24,000 but not over \$32,000</u>	<u>\$1,272.00 plus 7.30% of excess over \$24,000</u>
<u>Over \$32,000 but not over \$40,000</u>	<u>\$1,856.00 plus 7.60% of excess over \$32,000</u>
<u>Over \$40,000 but not over \$60,000</u>	<u>\$2,464.00 plus 7.90% of excess over \$40,000</u>

<u>Over \$60,000 but not over \$80,000</u>	<u>\$4,044.00 plus 8.20% of excess over \$60,000</u>
<u>Over \$80,000</u>	<u>\$5,684.00 plus 8.50% of excess over \$80,000</u>

In the case of any taxable year beginning after December 31, 2001:

<u>If the taxable income is:</u>	<u>The tax shall be:</u>
<u>Not over \$4,000</u>	<u>1.40% of taxable income</u>
<u>Over \$4,000 but not over \$8,000</u>	<u>\$56.00 plus 3.20% of excess over \$4,000</u>
<u>Over \$8,000 but not over \$16,000</u>	<u>\$184.00 plus 5.50% of excess over \$8,000</u>
<u>Over \$16,000 but not over \$24,000</u>	<u>\$624.00 plus 6.40% of excess over \$16,000</u>
<u>Over \$24,000 but not over \$32,000</u>	<u>\$1,136.00 plus 6.80% of excess over \$24,000</u>
<u>Over \$32,000 but not over \$40,000</u>	<u>\$1,680.00 plus 7.20% of excess over \$32,000</u>
<u>Over \$40,000 but not over \$60,000</u>	<u>\$2,256.00 plus 7.60% of excess over \$40,000</u>
<u>Over \$60,000 but not over \$80,000</u>	<u>\$3,776.00 plus 7.90% of excess over \$60,000</u>
<u>Over \$80,000</u>	<u>\$5,356.00 plus 8.25% of excess over \$80,000</u>

(b) There is hereby imposed on the taxable income of every head of a household a tax determined in accordance with the following table:

In the case of any taxable year beginning after December 31, [1988:] 1998:

<u>If the taxable income is:</u>	<u>The tax shall be:</u>
<u>[Not over \$1,500</u>	<u>2% of taxable income</u>
<u>Over \$1,500 but not over \$2,500</u>	<u>\$30.00 plus 3% of excess over \$1,500</u>
<u>Over \$2,500 but not over \$3,500</u>	<u>\$60.00 plus 4.5% of excess over \$2,500</u>
<u>Over \$3,500 but not over \$5,500</u>	<u>\$105.00 plus 5.9% of excess over \$3,500</u>
<u>Over \$5,500 but not over \$11,000</u>	<u>\$223.00 plus 7.25% of excess over \$5,500</u>
<u>Over \$11,000 but not over \$21,000</u>	<u>\$621.75 plus 8.6% of excess over \$11,000</u>
<u>Over \$21,000 but not over \$41,000</u>	<u>\$1,481.75 plus 9.6% of excess over \$21,000</u>
<u>Over \$41,000</u>	<u>\$3,401.75 plus 10% of excess over \$41,000]</u>
<u>Not over \$3,000</u>	<u>1.60% of taxable income</u>
<u>Over \$3,000 but not over \$6,000</u>	<u>\$48.00 plus 3.90% of excess over \$3,000</u>
<u>Over \$6,000 but not over \$12,000</u>	<u>\$165.00 plus 6.80% of excess over \$6,000</u>
<u>Over \$12,000 but not over \$18,000</u>	<u>\$573.00 plus 7.20% of excess over \$12,000</u>

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<u>Over \$18,000 but</u> <u>not over \$24,000</u>	<u>\$1,005.00 plus 7.50% of</u> <u>excess over \$18,000</u>
<u>Over \$24,000 but</u> <u>not over \$30,000</u>	<u>\$1,455.00 plus 7.80% of</u> <u>excess over \$24,000</u>
<u>Over \$30,000 but</u> <u>not over \$45,000</u>	<u>\$1,923.00 plus 8.20% of</u> <u>excess over \$30,000</u>
<u>Over \$45,000 but</u> <u>not over \$60,000</u>	<u>\$3,153.00 plus 8.50% of</u> <u>excess over \$45,000</u>
<u>Over \$60,000</u>	<u>\$4,428.00 plus 8.75% of</u> <u>excess over \$60,000</u>

In the case of any taxable year beginning after December 31, 2000:

<u>If the taxable income is:</u>	<u>The tax shall be:</u>
<u>Not over \$3,000</u>	<u>1.50% of taxable income</u>
<u>Over \$3,000 but</u> <u>not over \$6,000</u>	<u>\$45.00 plus 3.70% of</u> <u>excess over \$3,000</u>
<u>Over \$6,000 but</u> <u>not over \$12,000</u>	<u>\$156.00 plus 6.40% of</u> <u>excess over \$6,000</u>
<u>Over \$12,000 but</u> <u>not over \$18,000</u>	<u>\$540.00 plus 6.90% of</u> <u>excess over \$12,000</u>
<u>Over \$18,000 but</u> <u>not over \$24,000</u>	<u>\$954.00 plus 7.30% of</u> <u>excess over \$18,000</u>
<u>Over \$24,000 but</u> <u>not over \$30,000</u>	<u>\$1,392.00 plus 7.60% of</u> <u>excess over \$24,000</u>
<u>Over \$30,000 but</u> <u>not over \$45,000</u>	<u>\$1,848.00 plus 7.90% of</u> <u>excess over \$30,000</u>
<u>Over \$45,000 but</u> <u>not over \$60,000</u>	<u>\$3,033.00 plus 8.20% of</u> <u>excess over \$45,000</u>
<u>Over \$60,000</u>	<u>\$4,263.00 plus 8.50% of</u> <u>excess over \$60,000</u>

In the case of any taxable year beginning after December 31, 2001:

<u>If the taxable income is:</u>	<u>The tax shall be:</u>
<u>Not over \$3,000</u>	<u>1.40% of taxable income</u>
<u>Over \$3,000 but</u> <u>not over \$6,000</u>	<u>\$42.00 plus 3.20% of</u> <u>excess over \$3,000</u>
<u>Over \$6,000 but</u> <u>not over \$12,000</u>	<u>\$138.00 plus 5.50% of</u> <u>excess over \$6,000</u>
<u>Over \$12,000 but</u> <u>not over \$18,000</u>	<u>\$468.00 plus 6.40% of</u> <u>excess over \$12,000</u>
<u>Over \$18,000 but</u> <u>not over \$24,000</u>	<u>\$852.00 plus 6.80% of</u> <u>excess over \$18,000</u>
<u>Over \$24,000 but</u> <u>not over \$30,000</u>	<u>\$1,260.00 plus 7.20% of</u> <u>excess over \$24,000</u>
<u>Over \$30,000 but</u> <u>not over \$45,000</u>	<u>\$1,692.00 plus 7.60% of</u> <u>excess over \$30,000</u>
<u>Over \$45,000 but</u> <u>not over \$60,000</u>	<u>\$2,832.00 plus 7.90% of</u> <u>excess over \$45,000</u>
<u>Over \$60,000</u>	<u>\$4,017.00 plus 8.25% of</u> <u>excess over \$60,000</u>

(c) There is hereby imposed on the taxable income of (1) every unmarried individual (other than a surviving spouse, or the head of a household) and (2) on the taxable income of every married individual who does not make a single return jointly with the individual's spouse under section 235-93 a tax determined in accordance with the following table:

In the case of any taxable year beginning after December 31, [1988:] 1998:

If the taxable income is:	The tax shall be:
[Not over \$1,500	2% of taxable income
Over \$1,500 but not over \$2,500	\$30.00 plus 4% of excess over \$1,500
Over \$2,500 but not over \$3,500	\$70.00 plus 6% of excess over \$2,500
Over \$3,500 but not over \$5,500	\$130.00 plus 7.25% of excess over \$3,500
Over \$5,500 but not over \$10,500	\$275.00 plus 8% of excess over \$5,500
Over \$10,500 but not over \$15,500	\$675.00 plus 8.75% of excess over \$10,500
Over \$15,500 but not over \$20,500	\$1,112.50 plus 9.5% of excess over \$15,500
Over \$20,500	\$1,587.50 plus 10% of excess over \$20,500]
<u>Not over \$2,000</u>	<u>1.60% of taxable income</u>
<u>Over \$2,000 but not over \$4,000</u>	<u>\$32.00 plus 3.90% of excess over \$2,000</u>
<u>Over \$4,000 but not over \$8,000</u>	<u>\$110.00 plus 6.80% of excess over \$4,000</u>
<u>Over \$8,000 but not over \$12,000</u>	<u>\$382.00 plus 7.20% of excess over \$8,000</u>
<u>Over \$12,000 but not over \$16,000</u>	<u>\$670.00 plus 7.50% of excess over \$12,000</u>
<u>Over \$16,000 but not over \$20,000</u>	<u>\$970.00 plus 7.80% of excess over \$16,000</u>
<u>Over \$20,000 but not over \$30,000</u>	<u>\$1,282.00 plus 8.20% of excess over \$20,000</u>
<u>Over \$30,000 but not over \$40,000</u>	<u>\$2,102.00 plus 8.50% of excess over \$30,000</u>
<u>Over \$40,000</u>	<u>\$2,952.00 plus 8.75% of excess over \$40,000</u>

In the case of any taxable year beginning after December 31, 2000:

If the taxable income is:	The tax shall be:
<u>Not over \$2,000</u>	<u>1.50% of taxable income</u>
<u>Over \$2,000 but not over \$4,000</u>	<u>\$30.00 plus 3.70% of excess over \$2,000</u>
<u>Over \$4,000 but not over \$8,000</u>	<u>\$104.00 plus 6.40% of excess over \$4,000</u>
<u>Over \$8,000 but not over \$12,000</u>	<u>\$360.00 plus 6.90% of excess over \$8,000</u>
<u>Over \$12,000 but not over \$16,000</u>	<u>\$636.00 plus 7.30% of excess over \$12,000</u>

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<u>Over \$16,000 but not over \$20,000</u>	<u>\$928.00 plus 7.60% of excess over \$16,000</u>
<u>Over \$20,000 but not over \$30,000</u>	<u>\$1,232.00 plus 7.90% of excess over \$20,000</u>
<u>Over \$30,000 but not over \$40,000</u>	<u>\$2,022.00 plus 8.20% of excess over \$30,000</u>
<u>Over \$40,000</u>	<u>\$2,842.00 plus 8.50% of excess over \$40,000</u>

In the case of any taxable year beginning after December 31, 2001:

<u>If the taxable income is:</u>	<u>The tax shall be:</u>
<u>Not over \$2,000</u>	<u>1.40% of taxable income</u>
<u>Over \$2,000 but not over \$4,000</u>	<u>\$28.00 plus 3.20% of excess over \$2,000</u>
<u>Over \$4,000 but not over \$8,000</u>	<u>\$92.00 plus 5.50% of excess over \$4,000</u>
<u>Over \$8,000 but not over \$12,000</u>	<u>\$312.00 plus 6.40% of excess over \$8,000</u>
<u>Over \$12,000 but not over \$16,000</u>	<u>\$568.00 plus 6.80% of excess over \$12,000</u>
<u>Over \$16,000 but not over \$20,000</u>	<u>\$840.00 plus 7.20% of excess over \$16,000</u>
<u>Over \$20,000 but not over \$30,000</u>	<u>\$1,128.00 plus 7.60% of excess over \$20,000</u>
<u>Over \$30,000 but not over \$40,000</u>	<u>\$1,888.00 plus 7.90% of excess over \$30,000</u>
<u>Over \$40,000</u>	<u>\$2,678.00 plus 8.25% of excess over \$40,000</u>

(d) The tax imposed by section 235-2.4 on estates and trusts shall be determined in accordance with the following table:

In the case of any taxable year beginning after December 31, [1988:] 1998:

<u>If the taxable income is:</u>	<u>The tax shall be:</u>
<u>[Not over \$1,500</u>	<u>2% of taxable income</u>
<u>Over \$1,500 but not over \$2,500</u>	<u>\$30.00 plus 4% of excess over \$1,500</u>
<u>Over \$2,500 but not over \$3,500</u>	<u>\$70.00 plus 6% of excess over \$2,500</u>
<u>Over \$3,500 but not over \$5,500</u>	<u>\$130.00 plus 7.25% of excess over \$3,500</u>
<u>Over \$5,500 but not over \$10,500</u>	<u>\$275.00 plus 8% of excess over \$5,500</u>
<u>Over \$10,500 but not over \$15,500</u>	<u>\$675.00 plus 8.75% of excess over \$10,500</u>
<u>Over \$15,500 but not over \$20,500</u>	<u>\$1,112.50 plus 9.5% of excess over \$15,500</u>
<u>Over \$20,500</u>	<u>\$1,587.50 plus 10% of excess over \$20,500]</u>
<u>Not over \$2,000</u>	<u>1.60% of taxable income</u>
<u>Over \$2,000 but not over \$4,000</u>	<u>\$32.00 plus 3.90% of excess over \$2,000</u>
<u>Over \$4,000 but not over \$8,000</u>	<u>\$110.00 plus 6.80% of excess over \$4,000</u>



<u>Over \$8,000 but not over \$12,000</u>	<u>\$382.00 plus 7.20% of excess over \$8,000</u>
<u>Over \$12,000 but not over \$16,000</u>	<u>\$670.00 plus 7.50% of excess over \$12,000</u>
<u>Over \$16,000 but not over \$20,000</u>	<u>\$970.00 plus 7.80% of excess over \$16,000</u>
<u>Over \$20,000 but not over \$30,000</u>	<u>\$1,282.00 plus 8.20% of excess over \$20,000</u>
<u>Over \$30,000 but not over \$40,000</u>	<u>\$2,102.00 plus 8.50% of excess over \$30,000</u>
<u>Over \$40,000</u>	<u>\$2,952.00 plus 8.75% of excess over \$40,000</u>

In the case of any taxable year beginning after December 31, 2000:

If the taxable income is:

<u>Not over \$2,000</u>
<u>Over \$2,000 but not over \$4,000</u>
<u>Over \$4,000 but not over \$8,000</u>
<u>Over \$8,000 but not over \$12,000</u>
<u>Over \$12,000 but not over \$16,000</u>
<u>Over \$16,000 but not over \$20,000</u>
<u>Over \$20,000 but not over \$30,000</u>
<u>Over \$30,000 but not over \$40,000</u>
<u>Over \$40,000</u>

The tax shall be:

<u>1.50% of taxable income</u>
<u>\$30.00 plus 3.70% of excess over \$2,000</u>
<u>\$104.00 plus 6.40% of excess over \$4,000</u>
<u>\$360.00 plus 6.90% of excess over \$8,000</u>
<u>\$636.00 plus 7.30% of excess over \$12,000</u>
<u>\$928.00 plus 7.60% of excess over \$16,000</u>
<u>\$1,232.00 plus 7.90% of excess over \$20,000</u>
<u>\$2,022.00 plus 8.20% of excess over \$30,000</u>
<u>\$2,842.00 plus 8.50% of excess over \$40,000</u>

In the case of any taxable year beginning after December 31, 2001:

If the taxable income is:

<u>Not over \$2,000</u>
<u>Over \$2,000 but not over \$4,000</u>
<u>Over \$4,000 but not over \$8,000</u>
<u>Over \$8,000 but not over \$12,000</u>
<u>Over \$12,000 but not over \$16,000</u>
<u>Over \$16,000 but not over \$20,000</u>
<u>Over \$20,000 but not over \$30,000</u>
<u>Over \$30,000 but</u>

The tax shall be:

<u>1.40% of taxable income</u>
<u>\$28.00 plus 3.20% of excess over \$2,000</u>
<u>\$92.00 plus 5.50% of excess over \$4,000</u>
<u>\$312.00 plus 6.40% of excess over \$8,000</u>
<u>\$568.00 plus 6.80% of excess over \$12,000</u>
<u>\$840.00 plus 7.20% of excess over \$16,000</u>
<u>\$1,128.00 plus 7.60% of excess over \$20,000</u>
<u>\$1,888.00 plus 7.90% of</u>

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not over \$40,000  
Over \$40,000

excess over \$30,000  
\$2,678.00 plus 8.25% of  
excess over \$40,000

(e) Any taxpayer, other than a corporation, acting as a business entity in more than one state who is required by this chapter to file a return may elect to report and pay a tax of .5 per cent of its annual gross sales (1) where the taxpayer's only activities in this State consist of sales; and (2) who does not own or rent real estate or tangible personal property; and (3) whose annual gross sales in or into this State during the tax year is not in excess of \$100,000.

(f) If a taxpayer has a net capital gain for any taxable year to which this subsection applies, then the tax imposed by this section shall not exceed the sum of:

- (1) The tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of:
  - (A) The taxable income reduced by the amount of net capital gain, or
  - (B) The amount of taxable income taxed at a rate below 7.25 per cent, plus
- (2) A tax of 7.25 per cent of the amount of taxable income in excess of the amount determined under paragraph (1).

This subsection shall apply to individuals, estates, and trusts for taxable years beginning after December 31, 1986.”

SECTION 3. Section 235-55.8, Hawaii Revised Statutes, is repealed.

SECTION 4. Chapter 420, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§420- Limitation of chapter.** This chapter shall not be used to create a corporation after June 30, 1998; provided that those corporations incorporated under this chapter before July 1, 1998, which fulfill the purposes and requirements of this chapter, may continue to operate under this chapter.”

SECTION 5. Chapter 420, Hawaii Revised Statutes, is repealed on December 31, 2001; provided that those corporations incorporated under chapter 420, Hawaii Revised Statutes, prior to July 1, 1998, shall only claim tax benefits under chapter 420, Hawaii Revised Statutes, and in particular section 420-16, Hawaii Revised Statutes, in the following manner:

- (1) For the taxable year beginning January 1, 1998, any exemption from taxation or credit under section 420-16, Hawaii Revised Statutes, shall be eighty per cent of the taxes due the State or the credit allowable. Any tax exemption or credit not used shall not be applied to future tax years;
- (2) For the taxable year beginning January 1, 1999, any exemption from taxation or credit under section 420-16, Hawaii Revised Statutes, shall be sixty per cent of the taxes due the State or the credit allowable. Any tax exemption or credit not used shall not be applied to future tax years;
- (3) For the taxable year beginning January 1, 2000, any exemption from taxation or credit under section 420-16, Hawaii Revised Statutes, shall be forty per cent of the taxes due the State or the credit allowable. Any tax exemption or credit not used shall not be applied to future tax years; and
- (4) For the taxable year beginning January 1, 2001, any exemption from taxation or credit under section 420-16, Hawaii Revised Statutes, shall be twenty per cent of the taxes due the State or the credit allowable.

Any tax exemption or credit not used shall not be applied to future tax years.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1998; provided that if a taxpayer's taxable year includes the effective date of the tax rate changes (unless that date is the first day of the taxable year), then, (1) the tentative taxes shall be computed by applying the rate for the period before the effective date change, and the rate for the period on and after that date, to the taxable income for the entire year; and (2) the tax for the taxable year shall be the sum of that proportion of each tentative tax which the number of days in each period bears the number of days in the entire taxable year; provided that sections 4 and 5 shall take effect on June 30, 1998; provided further that section 5 shall apply to taxable years beginning after December 31, 1997.

(Approved July 10, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 158**

S.B. NO. 2495

A Bill for an Act Relating to Wage and Hour Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the airline industry is an integral and growing part of the State's economy. As an island state, it is vital for Hawaii to encourage and support the airline industry. The legislature further finds that airlines need the flexibility to accommodate employee hours of work and operational needs of airlines in scheduling work.

The purpose of this Act is to exempt employees of qualified airlines from the wage and hour law.

SECTION 2. Section 387-3, Hawaii Revised Statutes, is amended to read as follows:

**“§387-3 Maximum hours.** (a) No employer shall, except as otherwise provided in this section, employ any employee for a workweek longer than forty hours unless the employee receives overtime compensation for the employee's employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which the employee is employed.

For the purposes of this section,

- (1) “Salary” means a predetermined wage, exclusive of the reasonable cost of board, lodging, or other facilities, at which an employee is employed each pay period;
- (2) If an employee performs two or more different kinds of work for the same employer, the total earnings for all such work for the pay period shall be considered to have been earned for performing one kind of work.

(b) The regular rate of an employee who is employed on a salary shall be computed as follows:

- (1) If the employee is employed on a weekly salary, the weekly salary and the reasonable cost of board, lodging, or other facilities, if furnished to the employee, shall be divided by forty.
- (2) If the employee is employed on a biweekly salary, the biweekly salary and the reasonable cost of board, lodging, or other facilities, if furnished to the employee, shall be divided by two and the quotient divided by forty.
- (3) If the employee is employed on a semi-monthly salary, the semi-monthly salary and the reasonable cost of board, lodging, or other facilities, if furnished to the employee, shall be multiplied by twenty-four, the product divided by fifty-two and the quotient divided by forty.
- (4) If the employee is employed on a monthly salary, the monthly salary and the reasonable cost of board, lodging, or other facilities if furnished to the employee, shall be multiplied by twelve, the product divided by fifty-two and the quotient divided by forty.

(c) The regular rate of an employee who is employed on a salary and in addition receives other wages such as, but not limited to, commissions, bonus, piecework pay, and hourly or daily pay shall be computed in the manner provided in this subsection. As used hereinabove, the term "other wages" shall not include the reasonable cost of board, lodging, or other facilities.

- (1) If the employee's salary and the reasonable cost of board, lodging, or other facilities, if furnished to the employee, equal or exceed fifty per cent of the employee's total earnings for the pay period, the total earnings shall be reduced to a regular rate in the manner provided in paragraph (1), (2), (3), or (4) of subsection (b), whichever is applicable.
- (2) If the employee's salary and the reasonable cost of board, lodging, or other facilities, if furnished to the employee, are less than fifty per cent of the employee's total earnings for the pay period, the total earnings shall be reduced to a regular rate in the manner provided in paragraph (1), (2), (3), or (4) of subsection (b), whichever is applicable, except that the actual number of hours worked in the workweek shall be substituted for the final divisor of forty. Such an employee shall receive overtime compensation for employment in excess of forty hours in a workweek at a rate not less than one-half times the employee's regular rate.

(d) The regular rate of an employee whose compensation is based on other than salary shall be computed in the manner provided in paragraph (2) of subsection (c). The reasonable cost of board, lodging, or other facilities, if furnished to the employee, shall be included in computing the employee's regular rate. Such an employee shall receive overtime compensation for such employment in excess of forty hours in a workweek at a rate not less than one-half times the employee's regular rate.

(e) An employer,

- (1) Who is engaged in agriculture and in the first processing of milk, buttermilk, whey, skim milk, or cream into dairy products, or in the processing of sugar cane molasses or sugar cane into sugar (but not refined sugar) or into syrup, or in the first processing of or in canning or packing any agricultural or horticultural commodity, or in handling, slaughtering, or dressing poultry or livestock; or
- (2) Who is engaged in agriculture and whose agricultural products are processed by an employer who is engaged in a seasonal pursuit or in processing, canning, or packing operations referred to in paragraph (1); or

(3) Who is at any place of employment engaged primarily in the first processing of, or in canning or packing seasonal fresh fruits; shall not be required to pay overtime compensation for hours in excess of forty in a workweek to any of the employer's employees during any of twenty different workweeks, as selected by the employer, in any yearly period commencing July 1, for employment in any place where the employer is so engaged. The employer, however, shall pay overtime compensation for such employment in excess of forty-eight hours in any such exempt workweek at the rate and in the manner provided in subsections (a), (b), (c) and (d), whichever is applicable, except that the word "forty-eight" shall be substituted for the word "forty" wherever it appears in subsections (b), (c), and (d).

(f) No employer shall employ any employee in split shifts unless all of the shifts within a period of twenty-four hours fall within a period of fourteen consecutive hours, except in case of extraordinary emergency.

(g) This section shall not apply to any overtime hours worked by an employee of an air carrier subject to Title II of the Railway Labor Act, 45 U.S.C. section 181 et seq.; provided such overtime hours are the result of a voluntary agreement between employees to exchange work time or days off."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 13, 1998.)

## ACT 159

H.B. NO. 2486

A Bill for an Act Relating to Marriage and Family Therapists.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The potential for harm to public health, safety, and welfare is great when an unregulated mental health professional can engage in the private practice of psychotherapy, or when agencies and state departments do not have government imposed minimum standards of education, experience, and ethics to rely on in the hiring of mental health professionals. Private citizens seeking mental health services are in great emotional pain, are extremely vulnerable, and cannot readily discern the unskilled, untrained, and ill-prepared mental health professional. Without state regulation of the profession, citizens are at a distinct disadvantage in knowing who is qualified to treat mental and emotional disorders.

The profession of marriage and family therapy is recognized by the National Institute of Mental Health as one of the five core mental health professions along with psychiatry, psychology, clinical social work, and registered nurses. At present, marriage and family therapy is the only mental health profession which is unregulated in the State of Hawaii. Any individual may call oneself a marriage and family therapist regardless of training or experience. There are no special safeguards in place to assure consumers of the quality of services they are receiving. This has led to documented cases in Hawaii of unethical individuals representing themselves as marriage and family therapists and preying on vulnerable individuals seeking mental health services. Marriage and family therapists are presently licensed and regulated in forty other states to ensure quality of care. Lack of licensure in Hawaii creates a loophole through which those disbarred from other mental health professions can come to Hawaii and continue to practice.

The *Felix v. Cayetano* consent decree demands substantial improvement in the children's mental health delivery system in Hawaii. A key component of the decree is the inclusion of family therapy, a service for which marriage and family therapists are uniquely trained and qualified. Presently, a lack of qualified mental health professionals, especially on islands other than Oahu, has cost Hawaii thousands of dollars in airfare to transport mental health practitioners to the more rural areas of Hawaii when qualified marriage and family therapists on those islands could provide services. Lack of regulation of marriage and family therapists prevents the citizens of Hawaii from utilizing their medical insurance plans to cover the cost of medically necessary psychotherapy and prevents the State, nonprofit agencies, and providers from seeking third party reimbursement from insurance plans when a marriage and family therapist provides mental health services.

Issues related to family violence and child abuse are becoming an increasing strain on state resources. Marriage and family therapists are uniquely trained and qualified in the treatment of violent and abusive family systems. The associated cost of foster care in Hawaii also could be significantly reduced through the use of marriage and family therapists in the treatment and reunification of these families.

There is approximately a thirty per cent savings in reimbursement rates to marriage and family therapists compared to reimbursement rates to licensed psychologists for comparable psychotherapy services. Most insurance companies and employee assistance programs utilize marriage and family therapists as providers in states where regulation exists.

Both public and private universities in Hawaii seek to establish graduate marriage and family therapy training programs. However, they hesitate to establish these programs until the profession is regulated to ensure the employment of their graduates in Hawaii once trained.

It makes good economic sense, practical organizational development sense for social service agencies, and demonstrates compassionate concern for the mental health needs of Hawaii's citizens to enact regulation of marriage and family therapists.

The purpose of this Act is to set standards of qualifications, education, and experience for those persons who seek to represent themselves to the public as marriage and family therapists.

SECTION 2. The Hawaii Revised Statutes, is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
MARRIAGE AND FAMILY THERAPISTS**

§ -1 **Definitions.** As used in this chapter, unless the context clearly requires a different meaning:

“Accredited educational institution” means any educational institution which grants a master's or doctoral degree and is accredited by a regional accrediting body or a post graduate training institute accredited by the Commission on Accreditation for Marriage and Family Education.

“Advertise” means the issuing of or causing to be distributed any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on or in any building, on radio or television, or by advertising by any other means designed to secure public attention.

“Association” means the American Association for Marriage and Family Therapy.

“Clinical supervision” means the supervision of no more than six persons at the same time who are acquiring and completing clinical experience in accordance

with section -7(2) and (3), by a licensed marriage and family therapist whose license has been in good standing in any state for two years preceding commencement and during the term of supervision, or any licensed mental health professional whose license has been in good standing in any state and who has been a clinical member in good standing of the association for the two years preceding commencement and during the term of supervision. Clinical supervision includes but is not limited to case consultation of the assessment and diagnosis of presenting problems, development and implementation of treatment plans, and the evaluation of the course of treatment. Clinical supervision may include direct observation by the qualified supervisor of the provision of marriage and family therapy services.

“Department” means the department of commerce and consumer affairs.

“Director” means the director of commerce and consumer affairs.

“Family systems theories” means a body of research which focuses on understanding the family system and other social systems of the individual as integral to evaluating the etiology and providing treatment of mental and nervous disorders.

“Marriage and family therapist” means a person who uses the title of marriage and family therapist, who has been issued a license under this chapter, and whose license is in effect and not revoked or suspended at the time in question.

“Marriage and family therapy intern” means a person who has completed all educational requirements stipulated in section -7(1)(A) and who is currently earning supervised clinical experience in marriage and family therapy under clinical supervision.

“Marriage and family therapy practice” means the application of psychotherapeutic and family systems theories and techniques in the delivery of services to individuals, couples, or families in order to diagnose and treat mental, emotional, and nervous disorders, whether these are behavioral, cognitive, or affective, within the context of the individual’s relationships. Marriage and family therapy is offered directly to the general public or through organizations, either public or private, for a fee or through pro bono work. Marriage and family therapists assist individuals, couples, and families to achieve more adequate, satisfying, and productive social relationships, enable individuals to improve behavioral or psychological functioning, and help individuals reduce distress or disability. Marriage and family therapy includes but is not limited to:

- (1) Assessment and diagnosis of presenting problems through inquiry, observation, evaluation, integration of diagnostic information from adjunctive resources, description, and interpretation of verbal and non-verbal communication, thought processes, beliefs, affect, boundaries, roles, life cycle stages, family interaction patterns, economic, social, emotional, and mental functioning, in order to identify specific dysfunctions and to identify the presence of disorders as identified in the Diagnostic and Statistical Manual of Mental Disorders;
- (2) Designing and developing treatment plans by incorporating and integrating recognized family system theories, communication principles, crisis counseling principles, cognitive and behavioral counseling principles, or psychotherapeutic techniques in establishing short- and long-term goals and interventions collaboratively with the client; and
- (3) Implementing and evaluating the course of treatment by incorporating family systems theories to assist individuals, couples, and families to achieve more adequate, satisfying, and productive social relationships, to enable individuals to improve behavioral or psychological functioning, and to help individuals reduce distress or disability by improving problem solving skills, decision making skills, communication and other relationship interaction patterns, identification of strengths and

weaknesses, understanding or resolution of interpersonal or intrapersonal issues, recognition, development, and expression of appropriate affect, and referral to adjunctive medical, psychological, psychiatric, educational, legal, or social resources.

“Use of a title” means to hold oneself out to the public as having a particular status by stating the status on signs, mailboxes, address plates, stationery, announcements, telephone directory advertising, business cards, or other instruments of professional identification.

§ -2 **Marriage and family therapist licensing program.** There is established a marriage and family therapist licensing program within the department. The program shall be administered by the director.

§ -3 **Powers and duties of the director.** In addition to any other powers and duties authorized by law, the director may:

- (1) Examine and approve the qualifications of all applicants under this chapter, and issue a license to each successful applicant granting permission to use the title of marriage and family therapist in this State pursuant to this chapter and the rules adopted under this chapter;
- (2) Adopt, amend, or repeal rules pursuant to chapter 91;
- (3) Administer, coordinate, and enforce this chapter and rules;
- (4) Discipline a person licensed as a marriage and family therapist for any cause described by this chapter, or for any violation of rules, or refuse to license a person for failure to meet licensing requirements or for any cause that would be grounds for disciplining a licensed marriage and family therapist; and
- (5) Appoint an advisory committee of marriage and family therapists and members of the public to assist with the implementation of this chapter and the rules; except that the initial members of the committee who are marriage and family therapists shall not be required to be licensed pursuant to this chapter.

§ -4 **Fees; disposition.** (a) Application, examination, reexamination, license, renewal, penalty fees, and any other fees relating to the administration of this chapter, none of which are refundable, shall be as provided in rules adopted by the director pursuant to chapter 91.

(b) Fees assessed shall defray costs incurred by the director to support the operation of the marriage and family therapist licensing program. Fees collected shall be managed in accordance with section 26-9(1).

§ -5 **Prohibited acts.** Except as specifically provided elsewhere in this chapter, no person shall use the title marriage and family therapist without first having secured a license under this chapter. The department shall investigate and prosecute any individual using the title of marriage and family therapist without being properly licensed as a marriage and family therapist. Any person who violates this section shall be subject to a fine of not more than \$1,000 per violation. Each day’s violation shall be deemed a separate offense. Any action taken to impose or collect the fine imposed under this section shall be a civil action.

§ -6 **Exemptions.** (a) Licensure shall not be required of:

- (1) A person doing work within the scope of practice or duties of the person’s profession that overlaps with the practice of marriage and family therapy; provided the person does not purport to be a marriage and family therapist;



- (2) Any student enrolled in an accredited educational institution in a recognized program of study leading toward attainment of a graduate degree in marriage and family therapy or other professional field; provided that the student's activities and services are part of a prescribed course of study supervised by the educational institution and the student is identified by an appropriate title including but not limited to "marriage and family therapy student or trainee", "clinical psychology student or trainee", "clinical social work student or trainee", or any title which clearly indicates training status; or
- (3) Any individual who uses the title marriage and family therapy intern for the purpose of obtaining clinical experience in accordance with section -7(3).

(b) Nothing in this chapter shall be construed to prevent qualified members of other licensed professions as defined by any law, rule, or the department, including but not limited to social workers, psychologists, registered nurses, or physicians, from doing or advertising that they assist or treat individuals, couples, or families consistent with the accepted standards of their respective licensed professions; provided that no person, unless the person is licensed as a marriage and family therapist, shall use the title of marriage and family therapist.

**§ -7 Application for licensure.** Any person who files an application with the department after December 31, 1998, shall be issued a license by the department if the applicant provides satisfactory evidence to the department that the applicant is qualified for licensure pursuant to the requirements of this chapter and meets the following qualifications:

- (1) Has completed a master's degree or doctoral degree from an accredited educational institution in marriage and family therapy or in an allied field related to the practice of mental health counseling which includes or is supplemented by graduate level course work comprising a minimum of thirty-three semester, or forty-four quarter hours in the following course areas:
  - (A) Marriage and family studies - nine semester or twelve quarter hours;
  - (B) Marriage and family therapy studies - nine semester or twelve quarter hours;
  - (C) Human development - nine semester or twelve quarter hours;
  - (D) Ethical and professional studies - three semester or four quarter hours; or
  - (E) Research - three semester or four quarter hours;
- (2) Has one year practicum with three hundred hours supervised client contact;
- (3) Completes one thousand hours of direct marriage and family therapy, and two hundred hours clinical supervision in not less than twenty-four months; and
- (4) Has passed the National Marriage and Family Therapy Exam in accordance with section -8.

An individual who is a clinical member of the association shall be deemed to have met the educational and clinical experience requirements of this section.

**§ -8 Examination.** (a) The department shall conduct an examination of licensing applicants at least once a year at a time and place designated by the department.

(b) The department shall administer the National Marriage and Family Therapy Exam in compliance with the Association of Marital and Family Therapy Regulatory Board standards.

(c) An applicant shall be held to have passed an examination by obtaining a passing score as determined by the director.

§ -9 **Licensure fees.** Licenses shall be valid for three years and shall be renewed triennially. Any applicant for renewal of a license that has expired within one year of the renewal deadline shall be required to pay a restoration fee in addition to all renewal fees.

§ -10 **Renewal of license.** Licenses shall be renewed triennially on or before December 31, with the first renewal deadline occurring on December 31, 2001. Failure to renew a license shall result in a forfeiture of the license. Licenses which have been forfeited may be restored within one year of the expiration date upon payment of renewal and restoration fees. Failure to restore a forfeited license within one year of the date of its expiration shall result in the automatic termination of the license. Persons with terminated licenses shall be required to reapply for licensure as a new applicant.

§ -11 **Denial, revocation, or suspension of license.** (a) The department shall deny, revoke, condition, or suspend a license granted pursuant to this chapter on the following grounds:

- (1) Conviction by a court of competent jurisdiction of a crime which the department has determined, by rules adopted pursuant to chapter 91, to be of a nature that renders the person convicted unfit to practice marriage and family therapy;
- (2) Failing to report in writing to the director any disciplinary decision related to the provision of mental health services issued against the licensee or the applicant in any jurisdiction within thirty days of the disciplinary decision, or within thirty days of licensure;
- (3) Violation of recognized ethical standards for marriage and family therapists as set by the association;
- (4) Fraud or misrepresentation in obtaining a license;
- (5) Revocation, suspension, or other disciplinary action by any state or federal agency against a licensee or applicant for any reason provided under this section; or
- (6) Other just and sufficient cause which renders a person unfit to practice marriage and family therapy.

(b) Any licensee who violates this section may also be fined not more than \$1,000 per violation.

§ -12 **Confidentiality and privileged communications.** No person licensed as a marriage and family therapist, nor any of the person's employees or associates, shall be required to disclose any information that the person may have acquired in rendering marriage and family therapy services except in the following circumstances:

- (1) As required by law;
- (2) To prevent a clear and immediate danger to a person or persons;
- (3) In the course of a civil, criminal, or disciplinary action arising from the therapy where the therapist is a defendant;
- (4) In a criminal proceeding where the client is a defendant and the use of the privilege would violate the defendant's right to a compulsory

- process of the right to present testimony and witnesses in the defendant's own behalf;
- (5) In accordance with the terms of a client's previously written waiver of the privilege; or
  - (6) Where more than one person in a family jointly receives therapy and each family member who is legally competent executes a written waiver; in that instance, a therapist may disclose information received from any family member in accordance with the terms of the person's waiver.

**§ -13 Therapist prohibited from testifying in alimony and divorce actions.** If both parties to a marriage have obtained marriage and family therapy by a licensed marriage and family therapist, the therapist shall be prohibited from testifying in an alimony or divorce action concerning information acquired in the course of therapy. This section shall not apply to custody actions whether or not part of a divorce proceeding."

SECTION 3. Section 26H-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Chapter 467E [(Social Workers)] (social workers) shall be repealed on December 31, 2000.

Chapter (marriage and family therapists) shall be repealed on December 31, 2002."

SECTION 4. The director of commerce and consumer affairs may appoint an administrative assistant and secretary, without regard to chapters 76 and 77, Hawaii Revised Statutes, to assist with the activities of the marriage and family licensing program.

SECTION 5. This Act shall take effect upon its approval; provided that section -5 on prohibited acts and section -7 on application for licensure of section 2 of this Act shall take effect on December 31, 1998.

(Approved July 14, 1998.)

## ACT 160

H.B. NO. 2598

A Bill for an Act Relating to Automatic External Defibrillators.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 453-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Nothing herein shall:

- (1) Apply to so-called Christian Scientists so long as they merely practice the religious tenets of their church without pretending a knowledge of medicine or surgery;
- (2) Prohibit service in the case of emergency or the domestic administration of family remedies;
- (3) Apply to any commissioned medical officer in the United States armed forces or public health service[,] engaged in the discharge of one's

official duty, nor to any practitioner of medicine and surgery from another state when in actual consultation, including but not limited to, in-person, mail, electronic, telephonic, fiber-optic, or other telemedicine consultation[,] with a licensed physician of this State, if the physician from another state[,] at the time of such consultation[,] is licensed to practice in the state in which the physician resides; provided that:

- (A) The physician from another state shall not open an office, or appoint a place to meet patients, or receive calls within the limits of the State; and
  - (B) The licensed physician of this State retains control and remains responsible for the provision of care for the patient; and provided further that the laws and regulations relating to contagious diseases are not violated;
- (4) Prohibit services rendered by any person certified under part II of this chapter to provide emergency medical services, or any physician assistant, when the services are rendered under the direction and control of a physician licensed in this State except for final refraction resulting in a prescription for spectacles, contact lenses, or visual training as performed by an oculist or optometrist duly licensed by the State. The direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician. Any physician who employs or directs a person certified under part II of this chapter to provide emergency medical services, or physician assistant, shall retain full professional and personal responsibility for any act which constitutes the practice of medicine when performed by such person or physician assistant; or
- (5) Prohibit automatic external defibrillation by [any]:
- (A) Any first responder personnel certified by the department of health to provide automatic external defibrillation when it is rendered under the medical oversight of a physician licensed in this State[.]; or
  - (B) Any person who successfully completes training under an automatic external defibrillator program administered by a physician. An “automatic external defibrillator program” means an appropriate training course that includes cardiopulmonary resuscitation and proficiency in the use of an automatic external defibrillator.”

SECTION 2. Section 663-1.5, Hawaii Revised Statutes, is amended to read as follows:

**“§663-1.5 Exception to liability.** (a) Any person who in good faith renders emergency care, without remuneration or expectation of remuneration, at the scene of an accident or emergency to a victim of the accident or emergency shall not be liable for any civil damages resulting from the person’s acts or omissions, except for such damages as may result from the person’s gross negligence or wanton acts or omissions.

(b) No act or omission of any rescue team or physician working in direct communication with a rescue team operating in conjunction with a hospital or an authorized emergency vehicle of the hospital or the State or county, while attempting to resuscitate any person who is in immediate danger of loss of life, shall impose any liability upon the rescue team, the physicians, or the owners or operators of such hospital or authorized emergency vehicle, if good faith is exercised.

For the purposes of this section, “rescue team” means a special group of physicians, basic life support personnel, advanced life support personnel, surgeons,

nurses, volunteers, or employees of the owners or operators of the hospital or authorized emergency vehicle who have been trained in basic or advanced life support and have been designated by the owners or operators of the hospital or authorized emergency vehicle to attempt to provide such support and resuscitate persons who are in immediate danger of loss of life in cases of emergency.

This section shall not relieve the owners or operators of the hospital or authorized emergency vehicle of any other duty imposed upon them by law for the designation and training of members of a rescue team or for any provisions regarding maintenance of equipment to be used by the rescue team or any damages resulting from gross negligence or wanton acts or omissions.

(c) Any physician licensed to practice under the laws of this State or any other state who in good faith renders emergency medical care in a hospital to a person, who is in immediate danger of loss of life, without remuneration or expectation of remuneration, shall not be liable for any civil damages, if the physician exercises that standard of care expected of similar physicians under similar circumstances.

(d) Any person or other entity who as a public service publishes written general first aid information dealing with emergency first aid treatment, without remuneration or expectation of remuneration for providing this public service, shall not be liable for any civil damages resulting from the written publication of such first aid information except as may result from its gross negligence or wanton acts or omissions.

(e) Any person who successfully completes training under an automatic external defibrillator program administered by a physician and as defined pursuant to section 453-2 shall not be liable for any civil damages resulting from any act or omission while attempting in good faith, without remuneration or expectation of remuneration, to resuscitate a person in immediate danger of loss of life when administering an automatic external defibrillator except as may result from the person's gross negligence or wanton acts or omissions.

No person, including an employer, who establishes an automatic external defibrillator program shall be liable for any civil damages resulting from any act or omission of the persons or employees trained under the program who, in good faith and without remuneration or the expectation of remuneration, attempt to resuscitate a person in immediate danger of loss of life by administering an automatic external defibrillator.

(f) This section shall not relieve any person, physician, or employer of:

- (1) Any other duty imposed by law regarding the designation and training of persons or employees;
- (2) Any other duty imposed by provisions regarding the maintenance of equipment to be used for resuscitation; or
- (3) Liability for any damages resulting from gross negligence, or wanton acts or omissions.

For the purpose of this section, "good faith" is used to include[,] but is not limited to[,] a reasonable opinion that the immediacy of the situation is such that the rendering of care should not be postponed."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 14, 1998.)

A Bill for an Act Relating to Cigarette Sales to Minors.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 709-908, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

“(4) Any person who violates subsection (1) or (2), or both, shall be fined [not more than \$100] \$500 for the first offense. Any subsequent offenses shall subject the person to a fine not less than [ \$100] \$500 nor more than [ \$1,000.] \$2,000. Any minor under eighteen years of age who violates subsection (3) shall be fined \$10 for the first offense. Any subsequent offense shall subject the violator to a fine of \$50, no part of which shall be suspended, or the person shall be required to perform not less than forty-eight hours nor more than seventy-two hours of community service during hours when the person is not employed and is not attending school.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 1998.

(Approved July 14, 1998.)

A Bill for an Act Relating to the Practice of Medicine.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds:

- (1) The ancient Hawaiian culture incorporated traditional Hawaiian healing practices including la‘au lapa‘au (herbal healing), la‘au kahea (spiritual healing), lomi lomi (massage), and ho‘oponopono (conflict resolution);
- (2) Knowledge of some of these traditional Hawaiian healing practices has survived to the present in a dwindling number of traditional Hawaiian healers through direct practical association with elders and oral traditions transmitted from generation to generation;
- (3) There is the current risk that this knowledge will cease because of the advancing age of the few surviving traditional Hawaiian healers and because of concerns that the performance of traditional Hawaiian healing practices may constitute the unauthorized practice of medicine under state law;
- (4) Similar concerns have been recognized and addressed by various federal initiatives including but not limited to Public Law No. 102-396, the Native Hawaiian Health Care Improvement Act of 1992;

- (5) It is in the public interest that a process be established involving traditional Hawaiian healers and other interested individuals that will result in statutory clarification of the continued role of traditional Hawaiian healing practices in the recognized and authorized medical arts; and
- (6) It is in the public interest that, while this process is underway, there be interim certification provided by the Hawaiian health community to currently recognized traditional Hawaiian healers.

SECTION 2. For the purposes of this Act:

- (1) The term "Papa Ola Lokahi" shall refer to the same organization that is described and defined in Public Law No. 102-396, the Native Hawaiian Health Care Improvement Act of 1992;
- (2) The term "traditional native Hawaiian healer" shall have the same meaning as provided under Public Law No. 102-396, the Native Hawaiian Health Care Improvement Act of 1992; and
- (3) The term "traditional Hawaiian healing practices" shall refer to la'au lapa'au, la'au kahea, lomi lomi, ho'oponopono and similar practices commonly performed by traditional native Hawaiian healers.

SECTION 3. Section 453-2, Hawaii Revised Statutes, is amended to read as follows:

**"§453-2 License required; exceptions.** (a) Except as otherwise provided by law, no person shall practice medicine or surgery in the State either gratuitously or for pay, or shall offer to so practice, or shall advertise or announce one's self, either publicly or privately, as prepared or qualified to so practice, or shall append the letters "Dr." or "M.D." to one's name, with the intent thereby to imply that the individual is a practitioner of medicine or surgery, without having a valid unrevoked license or a limited and temporary license, obtained from the board of medical examiners, in form and manner substantially as hereinafter set forth.

(b) Nothing herein shall:

- (1) Apply to so-called Christian Scientists so long as they merely practice the religious tenets of their church without pretending a knowledge of medicine or surgery;
- (2) Prohibit service in the case of emergency or the domestic administration of family remedies;
- (3) Apply to any commissioned medical officer in the United States armed forces or public health service, engaged in the discharge of one's official duty, nor to any practitioner of medicine and surgery from another state when in actual consultation, including but not limited to in-person, mail, electronic, telephonic, fiber-optic, or other telemedicine consultation, with a licensed physician of this State if the physician from another state, at the time of such consultation, is licensed to practice in the state in which the physician resides; provided that:
  - (A) The physician from another state shall not open an office, or appoint a place to meet patients, or receive calls within the limits of the State; and
  - (B) The licensed physician of this State retains control and remains responsible for the provision of care for the patient; and provided further that the laws and regulations relating to contagious diseases are not violated;

- (4) Prohibit services rendered by any person certified under part II of this chapter to provide emergency medical services or any physician assistant when the services are rendered under the direction and control of a physician licensed in this State except for final refraction resulting in a prescription for spectacles, contact lenses, or visual training as performed by an oculist or optometrist duly licensed by the State. The direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician. Any physician who employs or directs a person certified under part II of this chapter to provide emergency medical services or physician assistant shall retain full professional and personal responsibility for any act which constitutes the practice of medicine when performed by such person or physician assistant; or
- (5) Prohibit automatic defibrillation by any first responder personnel certified by the department of health to provide automatic defibrillation when it is rendered under the medical oversight of a physician licensed in this State.

(c) Nothing herein shall prohibit traditional Hawaiian healing practices by traditional native Hawaiian healers, both as recognized and certified as such by the panel convened by Papa Ola Lokahi.”

SECTION 4. (a) Papa Ola Lokahi shall convene a panel of traditional native Hawaiian healers to address issues and recommend legislation relating to the permanent implementation of the purposes of this Act; and

(b) Papa Ola Lokahi shall submit a final report and recommended legislation to the legislature no later than twenty days prior to the convening of the regular session of 1999; provided that, if Papa Ola Lokahi is not then prepared to submit a final report, then Papa Ola Lokahi shall submit an interim report by such date, and shall submit a final report, together with recommended legislation, no later than twenty days prior to the convening of the regular session of 2000.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval; provided that on July 1, 2000 subsection (c) of section 453-2, Hawaii Revised Statutes, shall be repealed.

(Approved July 14, 1998.)

**ACT 163**

S.B. NO. 2092

A Bill for an Act Relating to Income Tax Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that Hawaii’s energy resources and physical environment must be managed and protected in a manner that ensures the health, safety, and welfare of the citizens of the State, while preserving its limited natural resources for future generations. An effective means of protecting the State’s fragile environment is to use energy more efficiently. Utility demand-side management programs have pledged millions of dollars in customer rebates for the use of energy-



efficient technologies, some of which are based on a partnership with state energy conservation tax credits.

The legislature further finds that energy conservation income tax credits have been a successful, beneficial, and cost-effective means of increasing the use of solar and wind energy, heat pump, and ice storage systems. An extension of the income tax credits provided for these systems will continue to promote their widespread use and reduce the use of imported fossil fuels.

To encourage energy efficiency and sustainability, the policy of the State since 1976 has been to provide tax credits for energy conserving systems. This policy has served the State well. Hawaii now leads the nation in per capita installations of residential systems. These installations have saved the State millions of dollars each year due to reduced imported oil, economic development by stimulating environmentally sensitive businesses and employment, and reduced monthly utility bills. As a result, our State has become a national leader in solar energy applications.

As a State blessed with solar energy resources, the potential to benefit from these resources should be encouraged and supported since these resources have an even greater potential of contributing to Hawaii's increased energy efficiency and sustainability.

The purpose of this Act is to encourage the use of energy conserving systems by:

- (1) Extending the effective duration of these energy conservation income tax credits an additional four and one-half years; and
- (2) Creating a task force to explore the most cost-effective means for supporting increased energy efficiency and sustainability.

SECTION 2. Section 235-12, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) For taxable years beginning after December 31, 1989, each individual or corporate resident taxpayer who files an individual or corporate net income tax return for a taxable year, may claim a tax credit under this section against the Hawaii state individual or corporate net income tax. The tax credit may be claimed as follows:

- (1) For wind energy systems that are installed and placed in service after December 31, 1989, but before [January 1, 1999,] July 1, 2003, the credit shall be twenty per cent of the actual cost;
- (2) For solar energy systems that are installed and placed in service after December 31, 1989, but before [January 1, 1999,] July 1, 2003, on new and existing single family residential buildings, the credit shall be in an amount not to exceed thirty-five per cent or \$1,750, whichever is less, of the actual cost of the solar energy system;
- (3) For solar energy systems that are installed and placed in service after December 31, 1989, but before [January 1, 1999,] July 1, 2003, on new and existing multiunit buildings used primarily for residential purposes, the credit shall be in an amount not to exceed thirty-five per cent or \$350 per building unit, whichever is less, of the actual cost of the solar energy system; [provided that a licensed professional engineer reviews the design of the system and provides a written opinion that the system, in accordance with recognized engineering practice, is designed to provide not less than eighty per cent of the daily average hot water needs of all of the occupants of the building;]
- (4) For solar energy systems that are installed and placed in service after December 31, 1989, but before [January 1, 1999,] July 1, 2003, in new

and existing hotel, commercial, and industrial facilities, the credit shall be in an amount not to exceed thirty-five per cent of the actual cost of the solar energy system;

- (5) For heat pumps that are installed and placed in service after December 31, 1989, but before [January 1, 1999,] July 1, 2003, in new and existing single-family residential buildings, the credit shall be in an amount not to exceed twenty per cent or \$400, whichever is less, of the actual cost of the heat pump;
- (6) For heat pumps that are installed and placed in service after December 31, 1989, but before [January 1, 1999,] July 1, 2003, in new and existing multiunit buildings used primarily for residential purposes, the credit shall be in an amount not to exceed twenty per cent or \$200 per building unit, whichever is less, of the actual cost of the heat pump; provided that a licensed professional engineer reviews the design of the system and provides a written opinion that the system, in accordance with recognized engineering practice, is designed to provide not less than ninety per cent of the daily annual average hot water needs of all of the occupants of the building;
- (7) For heat pumps that are installed and placed in service after December 31, 1989, but before [January 1, 1999,] July 1, 2003, in new and existing hotel, commercial, and industrial facilities, the credit shall be in an amount not to exceed twenty per cent of the actual cost of the heat pump; and
- (8) For ice storage systems that are installed and placed in service after December 31, 1990, but before [January 1, 1999,] July 1, 2003, the credit shall be in an amount not to exceed fifty per cent of the actual cost of the ice storage system.

The per unit of actual cost of a solar energy system or heat pump referred to in subsection (b)(3) and (6) shall be determined by multiplying the actual cost of the solar energy system or heat pump installed and placed in service in the multiunit building by a fraction, the numerator being the total square feet of that unit in the multiunit building, and the denominator being the total square feet of all the units in the multiunit building.

If federal energy tax credits similar to any of those provided in paragraphs (1) to (8) are established after June 30, 1998, but before July 1, 2003, then the state tax credit provided in the respective paragraph or paragraphs shall be reduced by the amount of the applicable federal energy tax credit.”

SECTION 3. (a) There is created a task force, within the department of business, economic development, and tourism, to explore the most cost-effective means for supporting increased energy efficiency and sustainability by:

- (1) Examining alternatives to encourage the efficient use of energy;
- (2) Considering the merits of active participation in the federal Million Solar Roofs Program, a partnership with businesses, communities, federal, state, and local governments, and utilities to install solar energy systems on one million roofs across the United States by the year 2010; and
- (3) Making recommendations on the most cost-effective means for increased energy efficiency.

(b) In selecting task force members, the department of business, economic development, and tourism shall ensure that there is representation from:

- (1) The department of business, economic development, and tourism;
- (2) The solar industry;
- (3) The utilities industry; and

(4) The building industry.

(c) The task force shall report its findings and recommendations to the legislature no later than January 1, 2002.

(d) The task force shall cease to operate on January 1, 2002.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 1998.

(Approved July 14, 1998.)

## ACT 164

S.B. NO. 2204

A Bill for an Act Relating to Regulatory Processes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to implement the regulatory process recommendations of the Economic Revitalization Task Force which was convened by the governor, the president of the senate, and the speaker of the house of representatives.

SECTION 2. The legislature recognizes the need to take constructive steps to improve Hawaii's business climate. Businesses inside and outside of the State have described the lengthy and indeterminate time required for business and development-related regulatory approvals, and the duplicative nature of the approval process, as an area which requires immediate attention. Substantive changes to these processes must be made in order to send a strong signal to the business community of the State's intent to improve the overall regulatory climate.

The purpose of this Act is to require the establishment of maximum time periods for the review and approval of all business and development-related permit approvals and licenses. Issuing agencies would be required to review applications for completeness in a timely manner and then to act upon the applications within an established time frame, or application approval would be automatic.

Maximum review and approval time periods would serve to provide all parties with a greater level of certainty of the time required for review and final determination by an agency on any application for a business or development-related permit, license, or approval.

SECTION 3. Chapter 91, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§91- Maximum time period for business or development-related permits, licenses, or approvals; automatic approval; extensions.** (a) Unless otherwise provided by law, an agency shall adopt rules that specify a maximum time period to grant or deny a business or development-related permit, license, or approval; provided that the application is not subject to state administered permit programs delegated, authorized, or approved under federal law.

(b) All such issuing agencies shall clearly articulate informational requirements for applications and review applications for completeness in a timely manner.

## ACT 165

(c) All such issuing agencies shall take action to grant or deny any application for a business or development-related permit, license or approval within the established maximum period of time, or the application shall be deemed approved.

(d) The maximum period of time established pursuant to this section shall be extended in the event of a national disaster, state emergency, or union strike, which would prevent the applicant, the agency, or the department from fulfilling application or review requirements.

(e) For purposes of this section, “application for a business or development-related permit, license, or approval” means any state or county application, petition, permit, license, certificate, or any other form of a request for approval required by law to be obtained prior to the formation, operation, or expansion of a commercial or industrial enterprise, or for any permit, license, certificate, or any form of approval required under sections 46-4, 46-4.2, 46-4.5, 46-5, and chapters 183C, 205, 205A, 340A, 340B, 340E, 340F, 342B, 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L, and 342P.”

SECTION 4. All agencies shall adopt rules as required by section 3 of this Act on the first occasion that the agency’s rules are amended upon approval of this Act or by December 31, 1999, whichever is earlier.

SECTION 5. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect upon its approval.

(Approved July 14, 1998.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 165

S.B. NO. 2338

A Bill for an Act Relating to the Certification of Hoisting Machine Operators.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature, in consultation with affected labor organizations, labor/management organizations, and management organizations with expertise in local hoisting operation training and practical testing experience finds that the certification of hoisting machine operators in construction, demolition, or excavation work is necessary to provide public and worker safety as well as for the economic well-being of the employers. Regulation of this profession is best served through the creation of a hoisting machine operators advisory board that will adopt rules for the certification of hoisting machine operators.

The purpose of this Act is to establish a regulatory framework to govern the hoisting machine operator profession.

SECTION 2. Chapter 396, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§396- Hoisting machine operators advisory board.** There is created a hoisting machine operators advisory board, to be composed of five members to serve without compensation and without reimbursement for expenses. Members shall be appointed by the governor under section 26-34.

The board shall adopt rules pursuant to chapter 91 for the certification of hoisting machine operators.

**§396- Hoisting machine operators' certification revolving fund.** (a) There is established in the state treasury a revolving fund to be known as the hoisting machine operators' certification revolving fund into which shall be deposited all fees, penalties, fines, and interest collected from:

- (1) Certification of hoisting machine operators;
- (2) Interest and investment moneys earned on any moneys in the fund; and
- (3) All moneys received for the fund from any source.

The moneys in the fund may be used to carry out the purposes of this section. The director of finance shall disburse the moneys in the fund in accordance with instructions from the director.

(b) The fund may be used for:

- (1) Personnel and operating expenses for an executive director for the hoisting machine operators advisory board;
- (2) All necessary board costs and reimbursements;
- (3) Preparation and dissemination of public information on hoisting machine operators' certification and training;
- (4) Preparation of annual reports on certification program activities and accomplishments and on the fund; and
- (5) Any reimbursements to the state general fund for funds appropriated by the legislature to establish the revolving fund.

(c) The director shall submit an annual report to the legislature on the status of the fund, including expenditures and program results, not less than twenty days prior to the convening of each regular session."

SECTION 3. Section 396-3, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Certified safety professional” means an individual who is certified by the board of certified safety professionals.”

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000, or so much thereof as may be necessary for fiscal year 1998-1999, for the expenses of one part-time executive director and one part-time secretary for the hoisting machine operators advisory board.

SECTION 5. The sum appropriated shall be expended by the department of labor and industrial relations for the purposes of this Act.

SECTION 6. On July 1, 2000, the director of labor and industrial relations shall authorize the director of finance to disburse the sum of \$50,000 or so much thereof as may be necessary from the hoisting machine operators' certification revolving fund to the credit of the state general fund as reimbursement for funds appropriated by the legislature to establish the hoisting machine operators' certification program established pursuant to this Act.

SECTION 7. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect upon its approval; provided that sections 4 and 5 of this Act shall take effect on July 1, 1998.

(Approved July 14, 1998.)

Note

- 1. Edited pursuant to HRS §23G-16.5.

ACT 166

S.B. NO. 2386

A Bill for an Act Relating to Coordinated Care Organizations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 386, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . COORDINATED CARE ORGANIZATIONS**

**§386-A Purpose.** (a) A system of coordinated care to provide coverage for the medical and rehabilitative benefits of a policy required under this chapter shall have the following purposes:

- (1) Minimize workplace injuries and promote workplace health and safety, through a cooperative effort among the employer, the employer’s workers’ compensation insurer, the employee, and the coordinated care organization under section 386-K;
- (2) Provide efficient, cost effective, and timely treatment through a coordinated and comprehensive system of quality health care, including the use of case management;
- (3) Provide a high level of quality of care;
- (4) Provide an understandable, accessible, and user friendly system of care, including open and direct communication and cooperation among the employer, the employer’s workers’ compensation insurer, the employee, and the coordinated care organization;
- (5) Provide a range of treatment, including but not limited to office, clinic, laboratory, hospital, rehabilitative, emergency, and other essential care;
- (6) Make available a variety of specialties as may be necessary and several providers within each specialty to afford comprehensive care and a choice of provider to the employee;
- (7) Provide a prompt and appropriate return to work program to assist an injured employee to return to work safely without unnecessary medical delay, and provide the employer and the employer’s workers’ compensation insurer with timely medical information, including work return status, recommended work restrictions, projected date of return to work, and degree of maximum medical improvement;
- (8) Provide a vocational rehabilitation program under section 386-25; and
- (9) Provide a program of internal dispute resolution processes such as mediation to reduce the adversarial nature of workers’ compensation; provided that the administrative and appeals process under this chapter shall be available to the injured employee at all times.

(b) The provisions of subsection (a), except for subsection (a)(1), are guidelines to assist a coordinated care organization registered under section 386-D in forming a system of coordinated care and to assist the employer, the employer’s workers’ compensation insurer, or a collective bargaining unit in selecting a coordinated care organization.

(c) If a conflict arises in any particular case among the listed purposes in subsection (a), then subsection (a)(3) shall prevail.

**§386-B Application and authorization.** (a) This part shall not apply without the mutual authorization of a collective bargaining unit, if applicable, and the employer.

(b) If there is a mutual authorization under subsection (a), a negotiated agreement under section 386-3.5 may include the use of a registered coordinated care organization to provide coverage for medical and rehabilitative services required under this chapter.

(c) For an employer not subject to collective bargaining, the employer or the employer's workers' compensation insurer or the employer's employer association may contract with a coordinated care organization registered under section 386-D(a) to provide medical and rehabilitative services required under this chapter. For purposes of this subsection, employer associations may contract for medical and rehabilitative services required under this chapter through coordinated care organizations formed under section 386-C. As used in this subsection, "employer associations" means any legal association of individuals, corporations, partnerships, or associations, except labor organizations, formed for purposes other than insurance.

(d) Captive insurers licensed under chapter 431:19 and self-insureds under section 386-121 may contract with a coordinated care organization registered under section 386-D(a) to provide medical and rehabilitative services required under this chapter.

**§386-C Who may form.** (a) The following groups may form a coordinated care organization for purposes of section 386-B:

- (1) Mutual benefit society certified under chapter 432:1;
- (2) Labor organization, as defined in section 386-8.5(a)(1);
- (3) Health maintenance organization certified under chapter 432D;
- (4) Insurer offering a policy under chapter 431:10A; and
- (5) An association, partnership, or professional corporation of physicians and other health care providers, including hospitals, rehabilitation services, and emergency care providers.

(b) For purposes of section 386-B, an organization listed in subsection (a) shall operate under this chapter through a workers compensation insurer providing benefits under chapter 386.

**§386-D Registration.** (a) A coordinated care organization qualified under section 386-C shall register with the department. The registration shall be submitted on forms specified by the department and shall include the following information:

- (1) Name, address, and phone number of the organization;
- (2) Identity of members of the organization, including but not limited to, health care providers, clinics, and hospitals or other medical facilities;
- (3) Services provided by the organization; and
- (4) Description of a plan of organization and operation to implement the purposes under section 386-A.

(b) Registration under subsection (a) shall be a prerequisite for providing coverage for medical and rehabilitative services for purposes of section 386-B. The department shall not accept any registration submitted by an organization that does not meet the requirements of section 386-C.

(c) A coordinated care organization shall file one or more plans or agreements as samples with its registration under subsection (a) for purposes of section 386-A(b). Plans or agreements shall not be subject to approval by the department.

(d) Violation of this section shall nullify any agreement or contract under section 386-B.

**§386-E Registration fee.** (a) The purpose of this section is to provide for a self-sustaining coordinated care organization system. Employers, insurers, health care providers, and other organizations may realize a cost savings from forming a coordinated care organization. Because these savings accrue to their benefit, a filing fee shall be assessed under subsection (b) so that the State is not burdened with added expense.

(b) Each registration filed under section 386-D shall be accompanied by a registration fee of \$10,000.

(c) There is established a coordinated care organization special fund to be administered by the department. Sums received by the department for registration under this section shall be deposited into the fund. The fund shall be used by the department to defray costs and expenses incurred by the department under this part. Unexpended moneys remaining in the special fund upon repeal of this section shall lapse into the general fund.

**§386-F Solvency and fee schedules.** (a) A registered coordinated care organization may have a negotiated amount paid by the employer, employer's workers' compensation insurer, or a collective bargaining unit, as applicable, for all services provided to all covered employees.

(b) If the negotiated amount under subsection (a) is a fixed sum for comprehensive care for work injuries, the coordinated care organization shall be subject to the solvency requirements, as follows:

- (1) For a health insurer under chapter 431:10A, chapter 431:5 shall apply;
- (2) For a mutual benefit society, chapter 432 shall apply;
- (3) For a health maintenance organization, chapter 432D shall apply; and
- (4) A labor organization under section 386-C(a)(2) or an association under section 386-C(a)(5) shall post bond with the insurance commissioner in an amount which the commissioner deems sufficient.

A coordinated care organization shall not be subject to regulation under the insurance code, if:

- (1) The negotiated amount under subsection (a) is in the form of assessments, dues, or contributions; and
  - (2) The payment to health care providers for rendering health care and service for work injuries is based on fee for each service.
- (c) Fee schedules shall be as provided under section 386-21(c).
- (d) If an employee disenrolls from a coordinated care organization under section 386-H(d), the coordinated care organization under a fixed sum amount under subsection (b) may retain the earned payment up to the end of the month of the disenrollment and need not refund the earned payment.

**§386-G Treatment and utilization protocols.** (a) A registered coordinated care organization shall be exempt from the requirements under section 386-26; provided that the frequency and extent of treatment shall not be less than required by the nature of the injury and the process of recovery. Treatment and utilization protocols shall be subject to approval by the department if the department finds that the protocols of a particular coordinated care organization warrant an approval procedure to ensure that a high level of quality of care is provided. The director shall have a health care provider advisory committee to advise the department on approval of protocols.

(b) If the employee believes that more treatment is necessary than that provided under subsection (a), the employee and the coordinated care organization shall utilize the procedures under section 386-A(a)(9) to ensure that a high level of quality of care is provided.



(c) An employer's workers' compensation insurer shall not deny approval of treatment if the treatment is within subsection (a).

**§386-H Choice of coordinated care organization; choice of provider.** (a) An employer may select two or more registered coordinated care organizations for purposes of this part. The employee shall have a choice of selecting one or need not select any.

(b) Prior to the employee's selection of a coordinated care organization under subsection (a), the employer shall provide the employee with information about each coordinated care organization that is being offered to the employee. The information shall include a list of names, addresses, and specialties of the individual health care providers who provide services for the coordinated care organization.

(c) A registered coordinated care organization shall provide to an employee in its program a choice of physicians and specialists. The employee may change a physician or a specialist as provided in section 386-21(b) within a coordinated care organization.

(d) After a definitive diagnosis or three visits, whichever occurs first, within a coordinated care organization for a work injury during the period of enrollment, the employee may change a physician, hospital, or specialist for any reason to one outside of the coordinated care organization in accordance with section 386-21(b) and upon notice to the coordinated care organization, which shall be deemed to be a disenrollment from the coordinated care organization. An employee who disenrolls may enroll in another registered coordinated care organization offered by the employer, or the employee may select any health care provider for treatment for a work injury. Any further change of physicians, hospitals, or specialists for the disenrolled employee shall be in accordance with section 386-21(b).

(e) Nothing in this section shall limit receiving emergency medical treatment for a work injury from any health care provider or medical services provider. Emergency medical treatment shall be paid by the employer's workers' compensation insurer or the self-insured, as applicable.

(f) This section shall not be construed to affect section 386-21(b) with regards to changing a provider.

**§386-I Independent medical examination.** (a) The employer, the employer's workers' compensation insurer, or the injured worker may request an independent medical examination for good cause. A case manager under section 386-J shall refer the injured worker to an appropriate health care provider for an independent medical examination outside of the coordinated care organization. The independent medical examiner shall examine the injured worker, review the records, and render a medical report.

(b) If the injured worker refuses to accept the health care provider designated by the case manager under subsection (a), the coordinated care organization and the injured worker shall agree upon another health care provider who is appropriately qualified to perform an independent medical examination.

(c) An independent medical examination under this section shall be performed within twenty-one days of the referral under subsection (a).

(d) The employer's workers' compensation insurer or the self-insured, as applicable, shall pay for the examination and report under subsection (a). The cost of the examination or report shall be subject to approval of the director if the cost is contested. The independent medical examination report shall be submitted to the coordinated care organization, the employer, the employer's workers' compensation insurer, and the employee.

**§386-J Case management.** A registered coordinated care organization shall assign a case manager to each injured employee to facilitate the accomplishment of the purposes under section 386-A. The case manager shall be a registered nurse who holds a national certification as a case manager or a registered nurse who is otherwise professionally qualified to provide case management services as determined by the registered coordinated care organization.

**§386-K Workplace health and safety.** (a) An employer under section 386-B(b) or (c) shall have a program of workplace health and safety, as follows:

- (1) For each employer with more than ten employees, there shall be a safety committee; and
- (2) For each employer with ten or fewer employees, there shall be a safety committee if:
  - (A) The employer has a lost workday cases incidence rate in the top ten per cent of all rates for employers in the same industry; or
  - (B) The workers' compensation premium classification assigned to the greatest portion of the payroll for the employer has a premium rate in the top twenty-five per cent of premium rates for all classes as approved by the director; provided that the director shall utilize the most recent departmental statistics regarding occupational injuries and illnesses and workers' compensation loss cost rates approved for use in this State.

(b) A safety committee under subsection (a) shall have a membership that has an equal number of employee and employer representatives who are volunteers for membership and who are selected by their respective peers. A safety committee shall have the following duties:

- (1) To have a regular meeting schedule; provided that each meeting shall be recorded in writing by the employer who shall maintain these records for inspection by the director; provided further that the employer shall compensate employee representatives for the time in attending meetings or the time in attending safety committee training, at the regular hourly rate;
- (2) To inspect the workplace for health and safety on a regular basis;
- (3) To investigate each incidence of accident, illness, or death in the workplace; and
- (4) To prescribe guidelines for the training of safety committee members."

**SECTION 2.** (a) There is established a coordinated care organization review task force that shall be administratively attached to the department of labor and industrial relations.

The task force shall consist of the following ten members:

- (1) Director of labor and industrial relations;
- (2) Insurance commissioner; and
- (3) Eight persons appointed by the director of labor and industrial relations, one to represent each of the following: labor, management, coordinated care organizations, health care providers involved with a coordinated care organization, workers' compensation insurers, nurse case managers, vocational rehabilitation specialists, and the general public.

If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled. The members shall serve without compensation but shall be reimbursed for all necessary expenses.

(b) The task force shall monitor and study the coordinated care organization system established by this Act to:

- (1) Ensure that a sufficient level of quality care is maintained, while giving consideration to balancing the interests of employers and employees;
- (2) Evaluate the effectiveness of each registered coordinated care organization in achieving the purposes set forth under section 386-A, Hawaii Revised Statutes;
- (3) Make recommendations, if any, to strengthen the coordinated care organization system;
- (4) Compare workers' compensation insurance premiums paid by employers before and after utilizing coordinated care organizations; and
- (5) Make a recommendation to the legislature as to whether or not the repeal date of June 30, 2002, for this Act should be extended.

The legislative reference bureau shall assist the task force in gathering information and data for the study.

(c) All registered coordinated care organizations shall cooperate with the task force in the study by providing information to the task force or the legislative reference bureau upon request. The information shall include the number of employees enrolled in the coordinated care organization, number of disenrolled employees, and the reasons for disenrollments.

(d) The task force shall submit a report of its findings and recommendations to the legislature and the governor no later than twenty days prior to the convening of the regular session of 2002.

**SECTION 3.** The legislative reference bureau shall conduct a study of coordinated care organizations. The study shall be completed and a report made to the legislature no later than twenty days prior to the convening of the regular session of 2002. The study shall evaluate:

- (1) The effectiveness of treatment and quality of care provided by coordinated care organizations;
- (2) The accessibility of medical specialist care to injured employees, including considerations of island by island availability of medical specialists who are willing to treat injured employees under chapter 386, Hawaii Revised Statutes;
- (3) The timeliness for injured workers to receive care; and
- (4) The extent of implementation of workplace health and safety programs.

The legislative reference bureau may rely upon the cooperation of the insurance commissioner, private insurers, and coordinated care organizations to obtain information and statistics in addition to any other sources. Private insurers and coordinated care organizations are urged to cooperate with the legislative reference bureau in its study.

**SECTION 4.** If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 5.** In codifying the new sections added by this Act, the revisor of statutes shall substitute the appropriate section numbers for the letters used in designating the new sections in this Act.

**SECTION 6.** This Act shall take effect upon its approval and shall be repealed on June 30, 2002.

(Approved July 14, 1998.)

A Bill for an Act Relating to the Homeless.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the Hale Kokua pilot project was first passed by the legislature six years ago as Act 279, Session Laws of Hawaii 1992. The pilot project represented an ambitious effort to implement an innovative, yet inexpensive, community-based initiative aimed at addressing the growing problem of homelessness in Hawaii. The purpose of the pilot project was to authorize the payment of various state incentives to interested homeowners who set aside new or existing rental units on their properties to provide shelter for individuals or families classified as “employed but homeless”. Initially designed as a two-year pilot project focusing on the island of Oahu, the law was amended in 1993 to encompass the entire State and extend its repeal date to July 1, 1997.

Fully aware of the potential of the Hale Kokua concept, the legislature proceeded in 1997, once again, to extend the law for three additional years—to July 1, 2000. The provision to extend the Hale Kokua project was incorporated into an omnibus bill calling for the consolidation of all state housing functions into a single agency. To provide sufficient time to plan and implement the reorganization, the bill was scheduled to take effect one year after its approval on July 1, 1998.

Because the Hale Kokua project was scheduled for repeal on July 1, 1997, a special early enactment clause was added to the bill to ensure the renewal of the project by June 30, 1997—one day prior to its scheduled termination. Unfortunately, an unintentional error in the final draft of the bill resulted in the misnumbering of several citations in the bill—including the citation calling for the early enactment of the Hale Kokua extension provision. Due to this oversight, the section cited by the early enactment clause did not correspond to the Hale Kokua extension provision in the bill.

H.B. No. 143, H.D. 2, S.D. 1, C.D. 1, was signed into law on July 3, 1997—three days after the termination of the Hale Kokua project. The unintentional error caused the Hale Kokua program to lapse. The legislature finds that the Hale Kokua program should still play a valuable role in providing housing and job-training for the State’s homeless population. The purpose of this Act is to reinstate the Hale Kokua program as a permanent program under the housing and community development corporation of Hawaii.

SECTION 2. Part IV of chapter 201G, Hawaii Revised Statutes, is amended as follows:

1. By designating sections 201G-451 to 201G-465 as subpart A and inserting a title before section 201G-451 to read:

“A. General Provisions”

2. By adding a new subpart to be appropriately designated and to read as follows:

“B. Hale Kokua Program

**§201G- Findings and purpose.** The legislature finds that the issue of homelessness should be regarded as one of the State’s most significant social problems. The severity of the problem is visible in every area of the State, and evidence that the problem is escalating is becoming more and more apparent. The problem of homelessness impacts everyone, and the burden of rectifying this problem should be approached comprehensively and as a collective responsibility.

The purpose of this subpart is to establish a homeless assistance program known as the "Hale Kokua" program which would authorize the payment of a state grant and a monthly rent supplement to any interested property owner who sets aside any existing rental space or undertakes the improvement or construction of any adjoining or separate dwelling unit for the purpose of renting the unit to any family or individual classified as employed but homeless under the program for a period of five years.

The program will place a priority on assisting homeless families in the greatest need. To ensure that no particular district or community of the State is unduly burdened by the sudden influx of homeless families holding rental contracts with qualified homeowners under the program, the number of homeowners authorized to take part in the Hale Kokua program will be limited to ten per census tract.

The Hale Kokua program will assist homeless families and individuals who are willing to engage in self-improvement programs and regular employment with an alternative to living in homeless shelters where homeless families as well as the special needs homeless are indiscriminately grouped together. Developing the employment skills of participating tenants is an integral component of the program.

Accordingly, the program will allow other available programs to focus more intently on the special needs of the homeless. The program also calls for the establishment of a cooperative effort between the State, the counties, and the federal government to provide the community and the Hale Kokua program with the resources and the incentives to eliminate the condition of homelessness. Since the Hale Kokua program involves the public and private sectors, the cost of implementing this program should be far less than the cost of building new homeless shelter facilities.

The program has the potential to drastically reduce the actual number of homeless families and individuals living in public areas, to ultimately provide full and free access to Hawaii's malls, streets, parks, and campgrounds. As a result, Hawaii's overall quality of life will be enriched and Hawaii's reputation as one of the most beautiful visitor destinations will be enhanced.

**§201G- Definitions.** As used in this subpart, unless the context clearly requires otherwise:

"Administrator" means the state homeless section administrator.

"Employed but homeless" means any person that is homeless as defined in subpart A who is employed at a minimum of nineteen hours a week or participates in an employment training program and does volunteer work for a total of nineteen hours per week until employment can be found.

**§201G- Hale Kokua program; established.** There is established, within the housing and community development corporation of Hawaii, a homeless assistance program known as the "Hale Kokua" program, to provide incentives and assistance to private homeowners throughout the State who set aside existing dwelling units, or construct or renovate dwelling units, for rental for a period of five years by families or individuals classified as employed but homeless. The program shall be headed by the state homeless section administrator. The executive director of the housing and community development corporation of Hawaii shall administer the Hale Kokua program and adopt the standards and framework necessary to implement the program statewide after the initial phase of the program.

**§201G- Powers and duties.** (a) The executive director of the corporation shall appoint a state homeless section administrator to carry out the purposes of this subpart and coordinate all programs and responses of state agencies relating to the problem of homelessness. The administrator, with approval of the executive direc-

tor, may contract with private services to carry out the duties and responsibilities of the program.

Notwithstanding any other law to the contrary, any contracts entered into by the administrator with a private sector entity pursuant to this subsection shall not be subject to chapters 76, 77, and 89. This subsection shall apply to contracts entered into by the state homeless programs coordinator with private sector entities pursuant to Act 279, Session Laws of Hawaii 1992, section 3, before the effective date of this section.

(b) Under the supervision of the executive director, the duties of the administrator or contracted agency shall include:

- (1) Carrying out the requirements of the Hale Kokua program under this subpart;
- (2) Developing and adopting the requirements, eligibility qualifications, registration, background check, initial screening procedures, and procedures for follow-up after placement to determine the ability to make rental payments and the need for social services and referrals for homeless families and individuals to qualify them as tenants under this program;
- (3) Developing and adopting the requirements, qualifications, and the registration procedures for property owners who provide rental housing to qualified homeless tenants; provided that priority shall be given to those not requesting construction grants;
- (4) Developing appropriate procedures to address potential liabilities of the State; and adopting the procedures to place qualified homeless tenants with property owners participating in the program. Participating property owners shall interview and make final tenant selection from lists of prospective tenants compiled by the administrator or the contracted agency;
- (5) Establishing the procedures and requirements for the disbursement of building improvement grants and rental subsidies and the amounts thereof to property owners participating in the program;
- (6) Working with the counties to develop and propose uniform incentives to encourage and facilitate the participation of property owners, including real property tax waivers or reductions, and exemptions in zoning or building code requirements which shall be conditioned on participation in the program and which shall lapse when program participation ends;
- (7) Monitoring the financial status and progress of homeless tenants and cooperating with other agencies in establishing and coordinating job training, and other programs to help tenants to progress toward self-sufficiency;
- (8) Promoting and assisting in the development of employer-employee relationships between homeless tenants and participating property owners, including but not limited to tenant caretaker, housekeeper, or groundskeeper employment situations;
- (9) Working towards securing financial, in-kind, and administrative assistance from law enforcement and other state and county agencies and the private sector to implement the program;
- (10) Working towards securing funding assistance from federal agencies and programs involved in housing development, job-training, or homeless assistance;
- (11) Monitoring the progress of the Hale Kokua program, and collecting annual statistics showing the numbers of homeless people, homeless

- families, and homeless children, using appropriate measurement systems; and
- (12) Preparing recommendations to improve and expand the program, including but not limited to incentives for participating property owners to sign up for additional terms.

**§201G- Homeowner participation; limitation; payments and assistance.** (a) The administrator shall limit the participation of not more than ten property owners within each census tract at any given period in time, without regard to the existence or operation of shelters and other facilities to aid the homeless in the tract. The administrator or contracted agency shall notify prospective participants registered on the waiting list in each census tract of the opportunity to participate in the program as these opportunities may arise in each tract.

(b) Assistance to any qualified property owner providing rental housing to any homeless tenant under this subpart for a period of five years shall include, but not be limited to, at least one of the following:

- (1) The payment of a state grant to offset the cost of renovating, building any adjoining addition, or constructing any separate structure upon the premises of the owner's property in preparation for its use as a homeless assistance unit under the program;
- (2) The payment of a monthly state rent subsidy to supplement the monthly rental payments made by the homeless tenant;
- (3) Real property tax rate waivers or reductions proposed by the administrator and approved by the council of the county in which the property is located;
- (4) Zoning and building code exemptions applicable to the construction of adjoining or separate dwelling units on the owner's property, provided that the county, by ordinance, may establish minimum development and construction standards for these units and procedures for approval thereto; and
- (5) Other incentives consistent with the purposes of this Act to assist in the participation of property owners under the program that are adopted by the state homeless programs administrator.

**§201G- Early withdrawal from program; recovery of grant.** (a) Any property owner who withdraws without just cause from the Hale Kokua program prior to five years shall return the state grant for construction improvements within ninety days of the date of withdrawal. The administrator shall effect the recovery of the grant, including but not limited to the filing of liens against the real property of withdrawing property owners. The administrator shall be awarded reasonable attorneys' fees and costs as determined by the court in any action brought to enforce this subpart.

(b) The respective county government whose jurisdiction includes the site shall determine the disposition of the additional unit constructed with the grant.

**§201G- Availability of funding.** All rental subsidies, grants, and payments allocated by the Hale Kokua program under this subpart shall be subject to the availability of funds."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 14, 1998.)

A Bill for an Act Relating to Hawaii Small Business Regulatory Flexibility Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that small business is the backbone of our State's economy. The legislature further finds that administrative rules adopted by state agencies can have an unduly burdensome impact on the growth and vitality of small business. The legislature therefore, declares that it is the policy of this State to address the disproportionate impact administrative rules may have on small business by requiring agencies to consult with the small business community affected to better assess the impacts and consider alternatives for easing those impacts when drafting rules.

The legislature further finds that an agency's interpretation or application of its rules may also have a disproportionately burdensome impact on a small business especially when the small business lacks the resources to contest an agency's interpretation or application of a rule imposing a fine, citation, or penalty. This has contributed to a general feeling of mistrust of, and frustration with, these regulating agencies. Improving the public's perception of government, particularly with regard to its regulatory and rulemaking functions, is inherent to improving the State's business climate. Despite the oftentimes burdensome regulatory requirements on businesses by government, regulations are also necessary for businesses to operate.

This Act provides for a petition process to an agency for regulatory review, periodic administrative review of rules with small business impacts, and an independent regulatory review board to consider concerns of small businesses and make recommendations to adopt, amend, or repeal rules. This Act also requires agencies to provide an opportunity for compliance to rules and regulations affecting small business without the assessment of monetary fines.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
HAWAII SMALL BUSINESS REGULATORY FLEXIBILITY ACT**

§ -1 **Definitions.** As used in this chapter, unless the context clearly requires otherwise:

“Advisory committee” means an advisory committee on small business as established in section -4.

“Affected small businesses” or “affects small business” means any potential or actual requirement imposed upon a small business through an agency's proposed or adopted rule that will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business.

“Agency” means each state or county board, commission, department, or officer authorized by law to make rules, except those in the legislative or judicial branches.

“Board” means the small business regulatory review board.

“Small business” means a for-profit enterprise consisting of fewer than two hundred full-time or part-time employees.

§ -2 **Determination of small business impact; small business impact statement.** (a) Prior to submitting proposed rules for adoption, amendment, or



repeal under section 91-3, the agency shall determine whether the proposed rules affect small business, and if so, the availability and practicability of less restrictive alternatives that could be implemented. This section shall not apply to emergency rulemaking.

(b) If the proposed rules affect small business, the agency shall consider creative, innovative, or flexible methods of compliance for small businesses and prepare a small business impact statement to be submitted with the proposed rules to the departmental advisory committee on small business and the small business regulatory review board prior to providing notice for a public hearing. The statement shall provide a reasonable determination of the following:

- (1) The businesses that will be directly affected by, bear the costs of, or directly benefit from the proposed rules;
- (2) Description of the small businesses that will be required to comply with the proposed rules and how they may be adversely affected;
- (3) In dollar amounts, the increase in the level of direct costs such as fees or fines, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance;
- (4) The probable monetary costs and benefits to the implementing agency and other agencies directly affected, including the estimated total amount the agency expects to collect from any additionally imposed fees and the manner in which the moneys will be used;
- (5) The methods the agency considered or used to reduce the impact on small business such as consolidation, simplification, differing compliance or reporting requirements, less stringent deadlines, modification of the fines schedule, performance rather than design standards, exemption, or any other mitigating techniques;
- (6) How the agency involved small business in the development of the proposed rules; and
- (7) Whether the proposed rules include provisions that are more stringent than those mandated by any comparable or related federal, state, or county standards, with an explanation of the reason for imposing the more stringent standard.

(c) This chapter shall not apply to proposed rules adopted by an agency to implement a statute or ordinance that does not require an agency to interpret or describe the requirements of the statute or ordinance, such as federally-mandated regulations which affords the agency no discretion to consider less restrictive alternatives.

**§ -3 Small business statement after public hearing.** For any proposed rules that affect small business, the agency shall also submit a small business statement to the small business regulatory review board and the departmental advisory committee on small business after the public hearing is held. This section shall not apply to emergency rules. The small business statement required by this section shall provide the following information:

- (1) A description of how opinions or comments from affected small business were solicited, a summary of the public and small business comments, and a summary of the agency's response to those comments;
- (2) The number of persons who:
  - (A) Attended the public hearing;
  - (B) Testified at the hearing; and
  - (C) Submitted written comments;
 and

- (3) If there was a request to change the proposed rule at the hearing in a way that affected small business, a statement of the reasons for adopting the proposed rule without the requested change.

**§ -4 Advisory committee on small business; consultation process for proposed rules.** (a) There may be established within and administratively attached to every department of the State or county whose rules affect small business activities, an advisory committee on small business. The advisory committee shall consist of three or more odd number of members appointed by the department and may advise more than one department. The department shall have the authority to appoint members to the advisory committee and to fill any vacancies. The members shall serve on a volunteer basis and have experience or knowledge of the effect of regulation by those departments on the formation, operation, or expansion of a small business. No person shall serve on the small business regulatory review board and an advisory committee on small business concurrently. The advisory committees shall not be subject to the requirements of chapter 91.

(b) When the agency is proposing rules that affect small business, the agency may consult with the administratively attached departmental advisory committee on small business regarding any matter related to the proposed rules prior to complying with the rulemaking requirements provided in chapter 91. Each agency shall develop its own internal management procedures for soliciting comments during the drafting of proposed rules from affected small businesses. The agency may develop creative procedures for the solicitation of comments from affected small businesses during the drafting or development of proposed rules.

(c) If necessary, any group or members of affected small businesses may also be consulted by the agency to formulate the relevant language, develop criteria, and provide any other expertise to ensure that the proposed rules will be drafted in a manner that will protect the public health, welfare, and safety without placing an undue and significant burden upon small business.

**§ -5 Small business regulatory review board; powers.** (a) There shall be established within the department of business, economic development, and tourism, for administrative purposes, a small business regulatory review board to consider any request from small business owners for review of any rule adopted by a state agency and to make recommendations to the agency or the legislature regarding the need for a rule change or legislation. For requests regarding county ordinances, the board may make recommendations to the county council or the mayor for appropriate action.

(b) The board shall consist of eleven members, who shall be appointed by the governor pursuant to section 26-34. Selection for the initial board shall come from a list of nominees submitted by the small business task force on regulatory relief. Thereafter, the nominations shall be made from names submitted by any and all of the departmental advisory committees on small business. The appointments shall reflect representation of a variety of small businesses in the State; provided that no more than two members shall be representatives from the same type of small business, and that there shall be at least two small business representatives from each county.

(c) All members of the board shall be either a current or former owner or officer of a small business and shall not be an officer or employee of the federal, state, or county government. The governor shall appoint the initial chairperson of the board, and a majority of the board shall elect subsequent chairpersons. The chairperson shall serve a term of not more than one year, unless removed earlier by a two-thirds vote of all members to which the board is entitled.

(d) A majority of all the members to which the board is entitled shall constitute a quorum to do business, and the concurrence of a majority of all the members to which the board is entitled shall be necessary to make any action of the board valid.

- (e) In addition to any other powers provided by this chapter, the board may:
- (1) Adopt any rules necessary to implement this chapter;
  - (2) Organize and hold conferences on problems affecting small business; and
  - (3) Do any and all things necessary to effectuate the purposes of this chapter.

**§ -6 Petition for regulatory review.** (a) In addition to the basis for filing a petition provided in section 91-6, any affected small business may file a written petition with the agency that has adopted the rules objecting to all or part of any rule affecting small business on any of the following grounds:

- (1) The actual effect on small business was not reflected in, or significantly exceeded, the small business impact statement submitted prior to the adoption of the rules;
- (2) The small business impact statement did not consider new or significant economic information that reveals an undue impact on small business; or
- (3) These impacts were not previously considered at the public hearing on the rules.

(b) For rules adopted prior to the effective date of this chapter, an affected small business may file a written petition with the agency that adopted the rules objecting to all or part of any rules affecting small business on any of the following grounds:

- (1) The rules created an undue barrier to the formation, operation, and expansion of small businesses in a manner that significantly outweighs its benefit to the public;
- (2) The rules duplicate, overlap, or conflict with rules adopted by another agency or violate the substantive authority under which the rules were adopted; or
- (3) The technology, economic conditions, or other relevant factors justifying the purpose for the rules have changed or no longer exist.

(c) Upon submission of the petition, the agency shall forward a copy of the petition to the board as notification of a petition filed under this chapter. The agency shall promptly consider the petition and may seek advice and counsel regarding the petition from the appropriate departmental advisory committee on small business. Within sixty days after the submission of the petition, the agency shall determine whether the impact statement or the public hearing addressed the actual and significant impact on small business. The agency shall submit a written response of the agency's determination to the small business review board within sixty days after receipt of the petition. If the agency determines that the petition merits the adoption, amendment, or repeal of a rule, it may initiate proceedings in accordance with section 91-3.

(d) If the agency determines that the petition does not merit the adoption, amendment, or repeal of any rule, any affected small business may seek a review of the decision by the small business regulatory review board. The board shall promptly convene a meeting pursuant to chapter 92 for the purpose of soliciting testimony that will assist in its determination whether to recommend that the agency initiate proceedings in accordance with section 91-3. For rules adopted after the effective date of this chapter, the board may base its recommendation on any of the following reasons:

- (1) The actual effect on small business was not reflected in, or significantly exceeded, the impact statement submitted prior to the adoption of the rules;
- (2) The impact statement did not consider new or significant economic information that reveals an undue impact on small business; or
- (3) These impacts were not previously considered at the public hearing on the rules.

(e) For rules adopted prior to the effective date of this chapter, the regulatory review board may base its recommendation to the agency on any of the following reasons:

- (1) The rules created an undue barrier to the formation, operation, and expansion of small businesses in the State in a manner that significantly outweighs its benefit to the public;
- (2) The rules duplicate, overlap, or conflict with rules adopted by another agency or violate the substantive authority under which the rules were adopted; or
- (3) The technology, economic conditions, or other relevant factors justifying the purpose for the rules have changed or no longer exist.

(f) If the small business regulatory review board recommends that an agency initiate rulemaking proceedings for any reason provided in subsection (d) or (e), it shall submit to the legislature an evaluation report and the agency's response as provided in subsection (c). The legislature may subsequently take such action in response to the evaluation report and the agency's response as it finds appropriate.

(g) Nothing in this section shall entitle an affected small business to a contested case hearing under chapter 91.

**§ -7 Periodic review; evaluation report.** (a) Each agency having rules that affect small business in effect on the effective date of this chapter shall submit by June 30 of each odd-numbered year, a list of those rules to the small business regulatory review board. The agency shall also submit a report describing the specific public purpose or interest for adopting the respective rules and any other reasons to justify its continued implementation.

(b) The small business regulatory review board shall provide to the head of each agency a list of any rules adopted by the agency that affect small business and have generated complaints or concerns, including any rules that the board determines may duplicate, overlap, or conflict with other rules, or exceed statutory authority. Within forty-five days after being notified by the board of the list, the agency shall submit a written report to the board in response to the complaints or concerns. The agency shall also state whether the agency has considered the continued need for the rules and the degree to which technology, economic conditions, and other relevant factors may have diminished or eliminated the need for maintaining the rules.

(c) The board may solicit testimony from the public regarding any report submitted by the agency under this section at a public meeting held pursuant to chapter 92. Upon consideration of any report submitted by an agency under this section and any public testimony, the small business regulatory review board shall submit an evaluation report to each regular session of the legislature in even-numbered years. The evaluation report shall include an assessment as to whether the public interest significantly outweighs a rule's effect on small business and any legislative proposal to eliminate or reduce the effect on small business. The legislature may take such action in response to the report as it finds appropriate.

**§ -8 Waiver or reduction of penalties.** (a) Except where a penalty or fine is assessed pursuant to a program approved, authorized, or delegated under a federal

law, any agency authorized to assess civil penalties or fines upon a small business shall waive or reduce any penalty or fine as allowed by federal or state law for a violation of any statute, ordinance, or rules by a small business under the following conditions:

- (1) The small business corrects the violation within a minimum of thirty days after receipt of a notice of violation or citation; and
  - (2) The violation was unintentional or the result of excusable neglect; or
  - (3) The violation was the result of an excusable misunderstanding of an agency's interpretation of a rule.
- (b) Subsection (a) shall not apply when:
- (1) A small business fails to exercise good faith in complying with the statute or rules;
  - (2) A violation involves wilful or criminal conduct; and
  - (3) A violation results in serious health, safety, or environmental impact.
- (c) An agency may adopt rules to implement the requirements of this section.

§ -9 **Executive order.** The governor may execute any executive order, memorandum, or directive necessary to implement any provision of this chapter."

SECTION 3. The Hawaii Revised Statutes is amended by adding a new chapter to title 3 to be appropriately designated and to read as follows:

### **“CHAPTER SMALL BUSINESS DEFENDER**

§ -1 **Small business defender.** (a) There is established within the legislature a small business defender. The small business defender shall be appointed by the senate president and speaker of the house of representatives. The senate president and speaker of the house of representatives shall determine the salary of the small business defender. The senate president and speaker of the house of representatives may also appoint administrative support personnel who shall assist and support the small business defender.

(b) Unless otherwise specifically provided by law, and upon written request by a small business, the small business defender may represent, defend, and provide legal representation to any small business, during any adjudicatory or contested proceeding involving any civil citation issued by a state or county agency in which the small business is a party; provided that the small business shall seek its own legal representation whenever the potential remedies against the small business may include fines or penalties that exceed \$25,000 or may result in the suspension or revocation of a license. The small business defender shall have the discretion to accept or refuse any case for good cause. The small business defender may also engage in the following activities:

- (1) Advocate and negotiate, upon consultation with the small business regulatory review board, with federal, state, and county agencies and officials on any matter relating to and promoting the interests of small business;
- (2) Conduct investigations to secure information useful in the lawful administration of any provision in this chapter;
- (3) Refer any appropriate matter to the auditor or ombudsman for examination or investigation; and
- (4) Do any and all things necessary to effectuate the purposes of this chapter.

(c) Each small business shall waive and release any and all claims, damages, causes of action, and any request for relief made against the small business defender

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or staff, the State or counties, their officers, employees, or agents, and arising from the legal representation of the small business by the small business defender provided under this section.

§ -2 **Annual report.** The small business defender shall submit an annual report to the legislature detailing its activities and expenditures no later than twenty days prior to convening of the regular session.”

SECTION 4. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 5. This Act shall take effect on July 1, 1998, and shall be repealed as of June 30, 2002.

(Approved July 14, 1998.)

## ACT 169

S.B. NO. 3141

A Bill for an Act Relating Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 237-13, Hawaii Revised Statutes, is amended to read as follows:

“§237-13 **Imposition of tax.** There is hereby levied and shall be assessed and collected annually privilege taxes against persons on account of their business and other activities in the State measured by the application of rates against values of products, gross proceeds of sales, or gross income, whichever is specified, as follows:

- (1) Tax on manufacturers.
  - (A) Upon every person engaging or continuing within the State in the business of manufacturing, including compounding, canning, preserving, packing, printing, publishing, milling, processing, refining, or preparing for sale, profit, or commercial use, either directly or through the activity of others, in whole or in part, any article or articles, substance or substances, commodity or commodities, the amount of the tax to be equal to the value of the articles, substances, or commodities, manufactured, compounded, canned, preserved, packed, printed, milled, processed, refined, or prepared, for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding, preparing, or printing them, multiplied by one-half of one per cent.
  - (B) The measure of the tax on manufacturers is the value of the entire product for sale, regardless of the place of sale or the fact that deliveries may be made to points outside the State.
  - (C) If any person liable for the tax on manufacturers ships or transports the person’s product, or any part thereof, out of the State, whether in a finished or unfinished condition, or sells the same for delivery outside of the State (for example, consigned to a

mainland purchaser via common carrier f.o.b. Honolulu), the value of the products in the condition or form in which they exist immediately before entering interstate or foreign commerce, determined as hereinafter provided, shall be the basis for the assessment of the tax imposed by this paragraph. This tax shall be due and payable as of the date of entry of the products into interstate or foreign commerce, whether the products are then sold or not. The department of taxation shall determine the basis for assessment, as provided by this paragraph, as follows:

- (i) If the products at the time of their entry into interstate or foreign commerce already have been sold, the gross proceeds of sale, less the transportation expenses, if any, incurred in realizing the gross proceeds for transportation from the time of entry of the products into interstate or foreign commerce, including insurance and storage in transit, shall be the measure of the value of the products.
  - (ii) If the products have not been sold at the time of their entry into interstate or foreign commerce, and in cases governed by clause (i) in which the products are sold under circumstances such that the gross proceeds of sale are not indicative of the true value of the products, the value of the products constituting the basis for assessment shall correspond as nearly as possible to the gross proceeds of sales for delivery outside the State, adjusted as provided in clause (i), or if sufficient data are not available, sales in the State, of similar products of like quality and character and in similar quantities, made by the taxpayer (unless not indicative of the true value) or by others. Sales outside the State, adjusted as provided in clause (i), may be considered when they constitute the best available data. The department shall prescribe uniform and equitable rules for ascertaining the values.
  - (iii) At the election of the taxpayer and with the approval of the department, the taxpayer may make the taxpayer's returns under clause (i) even though the products have not been sold at the time of their entry into interstate or foreign commerce.
  - (iv) In all cases in which products leave the State in an unfinished condition, the basis for assessment shall be adjusted so as to deduct the portion of the value as is attributable to the finishing of the goods outside the State.
- (2) Tax on business of selling tangible personal property; producing.
- (A) Upon every person engaging or continuing in the business of selling any tangible personal property whatsoever (not including, however, bonds or other evidence of indebtedness, or stocks), there is likewise hereby levied, and shall be assessed and collected, a tax equivalent to four per cent of the gross proceeds of sales of the business; provided that insofar as certain retailing is taxed by section 237-16, the tax shall be that levied by section 237-16, and in the case of a wholesaler, the tax shall be equal to one-half of one per cent of the gross proceeds of sales of the business. Upon every person engaging or continuing within this State in the business of a producer, the tax shall be equal to one-half of one per cent of the gross proceeds of sales of the business, or the value of the products, for sale, if sold for delivery outside the State or shipped or transported out of the State, and the value

of the products shall be determined in the same manner as the value of manufactured products covered in the cases under paragraph (1)(C).

- (B) Gross proceeds of sales of tangible property in interstate and foreign commerce shall constitute a part of the measure of the tax imposed on persons in the business of selling tangible personal property, to the extent, under the conditions, and in accordance with the provisions of the Constitution of the United States and the Acts of the Congress of the United States which may be now in force or may be hereafter adopted, and whenever there occurs in the State an activity to which, under the Constitution and Acts of Congress, there may be attributed gross proceeds of sales, the gross proceeds shall be so attributed.
- (C) No manufacturer or producer, engaged in such business in the State and selling the manufacturer's or producer's products for delivery outside of the State (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu), shall be required to pay the tax imposed in this chapter for the privilege of so selling the products, and the value or gross proceeds of sales of the products shall be included only in determining the measure of the tax imposed upon the manufacturer or producer.
- (D) When a manufacturer or producer, engaged in such business in the State, also is engaged in selling the manufacturer's or producer's products in the State at wholesale, retail, or in any other manner, the tax for the privilege of engaging in the business of selling the products in the State shall apply to the manufacturer or producer as well as the tax for the privilege of manufacturing or producing in the State, and the manufacturer or producer shall make the returns of the gross proceeds of the wholesale, retail, or other sales required for the privilege of selling in the State, as well as making the returns of the value or gross proceeds of sales of the products required for the privilege of manufacturing or producing in the State. The manufacturer or producer shall pay the tax imposed in this chapter for the privilege of selling its products in the State, and the value or gross proceeds of sales of the products, thus subjected to tax, may be deducted insofar as duplicated as to the same products by the measure of the tax upon the manufacturer or producer for the privilege of manufacturing or producing in the State; except that no producer of agricultural products who sells the products to a purchaser who will process the products outside the State shall be required to pay the tax imposed in this chapter for the privilege of producing or selling those products.
- (E) A taxpayer selling to a federal cost-plus contractor may make the election provided for by paragraph (3)(C), and in that case the tax shall be computed pursuant to the election, notwithstanding this paragraph or paragraph (1) to the contrary.
- (F) The department, by rule, may provide that a seller may take from the purchaser of tangible personal property a certificate, in a form as the department shall prescribe, certifying that the sale is a sale at wholesale. If the certificate is so provided for by rule of the department:
  - (i) Any purchaser who furnishes a certificate shall be obligated to pay to the seller, upon demand, if the sale in fact is not at



- wholesale, the amount of the additional tax which by reason thereof is imposed upon the seller; and
- (ii) The absence of a certificate, unless the sales of the business are exclusively at wholesale, in itself shall give rise to the presumption that the sale is not at wholesale.
- (3) Tax upon contractors.
- (A) Upon every person engaging or continuing within the State in the business of contracting, the tax shall be equal to four per cent of the gross income of the business; provided that insofar as the business of contracting is taxed by section 237-16, which relates to certain retailing, the tax shall be that levied by section 237-16.
- (B) In computing the tax levied under this paragraph or section 237-16, there shall be deducted from the gross income of the taxpayer so much thereof as has been included in the measure of the tax levied under subparagraph (A) or section 237-16, on:
- (i) Another taxpayer who is a contractor, as defined in section 237-6;
- (ii) A specialty contractor, duly licensed by the department of commerce and consumer affairs pursuant to section 444-9, in respect of the specialty contractor's business; or
- (iii) A specialty contractor who is not licensed by the department of commerce and consumer affairs pursuant to section 444-9, but who performs contracting activities on federal military installations and nowhere else in this State[, if the tax on the amount so deducted has been paid by the other person, or has been withheld by the taxpayer and shall be paid over by the taxpayer to the assessor at the time of filing the return, the withholding being authorized by this paragraph]; but any person claiming a deduction under this paragraph shall be required to show in the person's return the name and general excise number of the person paying the tax on the amount deducted by the person [or from whom the tax was withheld, and shall issue a receipt for any amount of tax withheld, which upon filing by the other taxpayer with the taxpayer's return, shall relieve the other taxpayer of liability for the amount of tax withheld].
- (C) In computing the tax levied under this paragraph against any federal cost-plus contractor, there shall be excluded from the gross income of the contractor so much thereof as fulfills the following requirements:
- (i) The gross income exempted shall constitute reimbursement of costs incurred for materials, plant, or equipment purchased from a taxpayer licensed under this chapter, not exceeding the gross proceeds of sale of the taxpayer on account of the transaction; and
- (ii) The taxpayer making the sale shall have certified to the department that the taxpayer is taxable with respect to the gross proceeds of the sale, and that the taxpayer elects to have the tax on gross income computed the same as upon a sale to the state government.
- (D) A person who, as a business or as a part of a business in which the person is engaged, erects, constructs, or improves any building or structure, of any kind or description, or makes, constructs, or improves any road, street, sidewalk, sewer, or water system, or

other improvements on land held by the person (whether held as a leasehold, fee simple, or otherwise), upon the sale or other disposition of the land or improvements, even if the work was not done pursuant to a contract, shall be liable to the same tax as if engaged in the business of contracting, unless the person shows that at the time the person was engaged in making the improvements it was, and for the period of at least one year after completion of the building, structure, or other improvements, it continued to be the person's purpose to hold and not sell or otherwise dispose of the land or improvements. The tax in respect of the improvements shall be measured by the amount of the proceeds of the sale or other disposition that is attributable to the erection, construction, or improvement of such building or structure, or the making, constructing, or improving of the road, street, sidewalk, sewer, or water system, or other improvements. The measure of tax in respect of the improvements shall not exceed the amount which would have been taxable had the work been performed by another, subject as in other cases to the deductions allowed by subparagraph (B). Upon the election of the taxpayer, this paragraph may be applied notwithstanding the improvements were not made by the taxpayer, or were not made as a business or as a part of a business, or were made with the intention of holding the same. However, this paragraph shall not apply in respect of any proceeds that constitute or are in the nature of rent; all such gross income shall be taxable under paragraph (10); provided that insofar as the business of renting or leasing real property under a lease is taxed under section 237-16.5, the tax shall be levied by section 237-16.5.

- (4) Tax upon theaters, amusements, radio broadcasting stations, etc. Upon every person engaging or continuing within the State in the business of operating a theater, opera house, moving picture show, vaudeville, amusement park, dance hall, skating rink, radio broadcasting station, or any other place at which amusements are offered to the public, the tax shall be equal to four per cent of the gross income of the business.
- (5) Tax upon sales representatives, etc. Upon every person classified as a representative or purchasing agent under section 237-1, engaging or continuing within the State in the business of performing services for another, other than as an employee, there is likewise hereby levied and shall be assessed and collected a tax equal to four per cent of the commissions and other compensation attributable to the services so rendered by the person.
- (6) Tax on service business. Upon every person engaging or continuing within the State in any service business or calling not otherwise specifically taxed under this chapter, there is likewise hereby levied and shall be assessed and collected a tax equal to four per cent of the gross income of the business; provided that where any person engaging or continuing within the State in any service business or calling renders those services upon the order of or at the request of another taxpayer who is engaged in the service business and who, in fact, acts as or acts in the nature of an intermediary between the person rendering those services and the ultimate recipient of the benefits of those services, so much of the gross income as is received by the person rendering the services shall be subjected to the tax at the rate of one-half of one per cent and all of the gross income received by the intermediary from the

principal shall be subjected to a tax at the rate of four per cent; and provided that where any person is engaged in the business of selling interstate or foreign common carrier telecommunication services within and without the State, the tax shall be imposed on that portion of gross income received by a person from service which is originated or terminated in this State and is charged to a telephone number, customer, or account in this State notwithstanding any other state law (except for the exemption under section 237-23(a)(1)) to the contrary. If, under the Constitution and laws of the United States, the entire gross income as determined under this paragraph of a business selling interstate or foreign common carrier telecommunication services cannot be included in the measure of the tax, the gross income shall be apportioned as provided in section 237-21; provided that the apportionment factor and formula shall be the same for all persons providing those services in the State.

- (7) Tax on insurance solicitors and agents. Upon every person engaged as a licensed solicitor, general agent, or subagent pursuant to chapter 431, there is hereby levied and shall be assessed and collected a tax equal to .15 per cent of the commissions due to that activity.
- (8) Professions. Upon every person engaging or continuing within the State in the practice of a profession, including those expounding the religious doctrines of any church, there is likewise hereby levied and shall be assessed and collected a tax equal to four per cent of the gross income on the practice or exposition.
- (9) Tax on receipts of sugar benefit payments. Upon the amounts received from the United States government by any producer of sugar (or the producer's legal representative or heirs), as defined under and by virtue of the Sugar Act of 1948, as amended, or other Acts of the Congress of the United States relating thereto, there is hereby levied a tax of one-half of one per cent of the gross amount received, provided that the tax levied hereunder on any amount so received and actually disbursed to another by a producer in the form of a benefit payment shall be paid by the person or persons to whom the amount is actually disbursed, and the producer actually making a benefit payment to another shall be entitled to claim on the producer's return a deduction from the gross amount taxable hereunder in the sum of the amount so disbursed. The amounts taxed under this paragraph shall not be taxable under any other paragraph, subsection, or section of this chapter.
- (10) Tax on other business. Upon every person engaging or continuing within the State in any business, trade, activity, occupation, or calling not included in the preceding paragraphs or any other provisions of this chapter, there is likewise hereby levied and shall be assessed and collected, a tax equal to four per cent of the gross income thereof. In addition, the rate prescribed by this paragraph shall apply to a business taxable under one or more of the preceding paragraphs or other provisions of this chapter, as to any gross income thereof not taxed thereunder as gross income or gross proceeds of sales or by taxing an equivalent value of products, unless specifically exempted."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval; provided that the amendments made to section 237-13, Hawaii Revised Statutes, by Act 353, Session

## ACT 170

Laws of Hawaii 1997, shall not take effect until October 1, 1998.

(Approved July 14, 1998.)

## ACT 170

S.B. NO. 3220

A Bill for an Act Relating to the Conveyance Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 247-7, Hawaii Revised Statutes, is amended to read as follows:

“**§247-7 Disposition of taxes.** All taxes collected under this chapter shall be paid into the state treasury to the credit of the general fund of the State, to be used and expended for the purposes for which the general fund was created and exists by law; provided that of the taxes collected each fiscal year, [twenty-five] twelve and one-half per cent shall be paid into the rental housing trust fund established by section [206G-432] 201G-432 and twenty-five per cent shall be paid into the natural area reserve fund established by section 195-9; provided that the funds paid into the natural area reserve fund shall be annually disbursed to the natural area partnership and forest stewardship programs by the department of land and natural resources after joint consultation with the forest stewardship committee and the natural area reserves system commission.”

SECTION 2. Section 247-7, Hawaii Revised Statutes, is amended to read as follows:

“**§247-7 Disposition of taxes.** All taxes collected under this chapter shall be paid into the state treasury to the credit of the general fund of the State, to be used and expended for the purposes for which the general fund was created and exists by law; provided that of the taxes collected each fiscal year, twenty-five per cent shall be paid into the rental housing trust fund established by section [206G-432] 201G-432 and twenty-five per cent shall be paid into the natural area reserve fund established by section 195-9; provided that the funds paid into the natural area reserve fund shall be annually disbursed to the natural area partnership and forest stewardship programs by the department of land and natural resources after joint consultation with the forest stewardship committee and the natural area reserves system commission.”

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$600,000 or so much thereof as may be necessary for fiscal year 1998-1999 for the purposes of providing homeless assistance pursuant to chapter 201G, part IV, Hawaii Revised Statutes; provided that no funds shall be appropriated for the operation of a homeless shelter or facility that is provided in conjunction with the department of transportation.

The sum appropriated shall be expended by the housing and community development corporation for the purposes of this Act.

SECTION 4. The executive director of the housing and community development corporation of Hawaii shall submit a report to the legislature no later than twenty days prior to the convening of the Regular Session of the 1999 legislature, that:

- (1) Details the current expenditures of the housing and community development corporation for providing homeless assistance; and
- (2) Assesses and identifies the funding needs for providing homeless assistance during the fiscal years 1999-2000 and 2000-2001.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 1998; provided that:

- (1) Section 2 shall take effect on July 1, 1999; and
- (2) Section 1 shall be repealed on June 30, 1999.

(Approved July 14, 1998.)

## ACT 171

H.B. NO. 2537

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that using domestic abuse status as a rating factor denies at-risk individuals the benefits of insurance and that the fear of losing coverage may discourage some people from seeking help. If the ability to obtain and maintain health insurance coverage for at-risk individuals and their dependents is denied, they may feel the only alternative is to stay in an abusive relationship. Knowing that insurance coverage may be lost or denied if an insurer learns of an abusive situation can lead abuse victims to avoid seeking the medical, legal, and counseling support services they desperately need.

In 1995, six states (California, Connecticut, Delaware, Florida, Iowa, and Massachusetts) moved to preserve insurance coverage for individuals who have been, are, or are at-risk of being abused in a domestic relationship. The laws resulted from documentation and recognition that denying, cancelling, restricting, or increasing premium rates for life and health insurance coverage had become a standard insurance industry practice.

In 1996, anti-discrimination bills were introduced in at least seventeen states, most with provisions prohibiting use of domestic violence status as rating criteria. At the end of the year, ten of those states had enacted laws.

The purpose of this Act is to preserve insurance coverage for or prevent discrimination against individuals who have been or are at risk of domestic abuse.

SECTION 2. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to part II of article 10 to be appropriately designated and to read as follows:

**“§431:10- Policies relating to domestic abuse cases.** (a) No insurer shall deny or refuse to accept an application for insurance, refuse to insure, refuse to renew, cancel, restrict, or otherwise terminate a policy of insurance, or charge a different rate for the same coverage, on the basis that the applicant or insured person is, has been, or may be a victim of domestic abuse.

(b) Nothing in this section shall prevent an insurer from taking any of the actions set forth in subsection (a) on the basis of loss history or medical condition or for any other reason not otherwise prohibited by this section, any law, regulation, or rule.

(c) Any form filed or filed after the effective date of this section or subject to a rule adopted under chapter 91 may exclude coverage for losses caused by intentional or fraudulent acts of any insured. Such an exclusion, however, shall not apply to deny an insured's otherwise-covered property loss if:

- (1) The property loss is caused by an act of domestic abuse by another insured under the policy;
- (2) The insured claiming property loss files a police report and cooperates with any law enforcement investigation relating to the act of domestic abuse; and
- (3) The insured claiming property loss did not cooperate in or contribute to the creation of the property loss.

Payment by the insurer to an insured may be limited to the person's insurable interest in the property less payments made to a mortgagee or other party with a legal secured interest in the property. An insurer making payment to an insured under this section has all rights of subrogation to recover against the perpetrator of the act that caused the loss.

(d) Nothing in this section prohibits an insurer from investigating a claim and complying with chapter 431.

(e) As used in this section, "domestic abuse" means:

- (1) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members;
- (2) Sexual assault of one family or household member by another;
- (3) Stalking of one family or household member by another family or household member; or
- (4) Intentionally, knowingly, or recklessly causing damage to property so as to intimidate or attempt to control the behavior of another household member."

SECTION 3. Chapter 432, Hawaii Revised Statutes, is amended by adding a new section to article 1 to be appropriately designated and to read as follows:

**"§432:1- Policies relating to domestic abuse cases.** (a) No mutual benefit society shall deny or refuse to accept an application for insurance, refuse to insure, refuse to renew, cancel, restrict, or otherwise terminate a policy of insurance, or charge a different rate for the same coverage, on the basis that the member or prospective member is, has been, or may be a victim of domestic abuse.

(b) Nothing in this section shall prevent a mutual benefit society from taking any of the actions set forth in subsection (a) on the basis of loss history or medical condition or for any other reason not otherwise prohibited by this section, any law, regulation, or rule.

(c) Any form filed or filed after the effective date of this section or subject to a rule adopted under chapter 91 may exclude coverage for losses caused by intentional or fraudulent acts of any member of the society.

(d) Nothing in this section prohibits a mutual benefit society from investigating a claim and complying with chapter 432.

(e) As used in this section, "domestic abuse" means:

- (1) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members;
- (2) Sexual assault of one family or household member by another;
- (3) Stalking of one family or household member by another family or household member; or

- (4) Intentionally, knowingly, or recklessly causing damage to property so as to intimidate or attempt to control the behavior of another household member.”

SECTION 4. Chapter 432, Hawaii Revised Statutes, is amended by adding a new section to article 2 to be appropriately designated and to read as follows:

“**§432:2- Policies relating to domestic abuse cases.** (a) No fraternal benefit society shall deny or refuse to accept an application for insurance, refuse to insure, refuse to renew, cancel, restrict, or otherwise terminate a policy of insurance, or charge a different rate for the same coverage, on the basis that the member or prospective member is, has been, or may be a victim of domestic abuse.

(b) Nothing in this section shall prevent a fraternal benefit society from taking any of the actions set forth in subsection (a) on the basis of loss history or medical condition or for any other reason not otherwise prohibited by this section, any law, regulation, or rule.

(c) Any form filed or filed after the effective date of this section or subject to a rule adopted under chapter 91 may exclude coverage for losses caused by intentional or fraudulent acts of any benefit member.

(d) Nothing in this section prohibits an fraternal benefit society from investigating a claim and complying with chapter 431.

(e) As used in this section, “domestic abuse” means:

- (1) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members;
- (2) Sexual assault of one family or household member by another;
- (3) Stalking of one family or household member by another family or household member; or
- (4) Intentionally, knowingly, or recklessly causing damage to property so as to intimidate or attempt to control the behavior of another household member.”

SECTION 5. Chapter 432D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§432D- Policies relating to domestic abuse cases.** (a) No health maintenance organization shall deny or refuse to accept an application for insurance, refuse to insure, refuse to renew, cancel, restrict, or otherwise terminate a policy of insurance, or charge a different rate for the same coverage, on the basis that the applicant or enrollee is, has been, or may be a victim of domestic abuse.

(b) Nothing in this section shall prevent a health maintenance organization from taking any of the actions set forth in subsection (a) on the basis of loss history or medical condition or for any other reason not otherwise prohibited by this section, any law, regulation, or rule.

(c) Any form filed or filed after the effective date of this section or subject to a rule adopted under chapter 91 may exclude coverage for losses caused by intentional or fraudulent acts of any enrollee.

(d) Nothing in this section prohibits a health maintenance organization from investigating a claim and complying with chapter 432D.

(e) As used in this section, “domestic abuse” means:

- (1) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members;
- (2) Sexual assault of one family or household member by another;

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- (3) Stalking of one family or household member by another family or household member; or
- (4) Intentionally, knowingly, or recklessly causing damage to property so as to intimidate or attempt to control the behavior of another household member.”

SECTION 6. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect upon its approval.

(Approved July 15, 1998.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 172

H.B. NO. 2666

A Bill for an Act Relating to Domestic Violence.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 586-1, Hawaii Revised Statutes, is amended by amending the definition of “Family and household members” to read:

““Family [and] or household [members’] member” means spouses or reciprocal beneficiaries, former spouses or former reciprocal beneficiaries, persons who have a child in common, parents, children, persons related by consanguinity, and persons jointly residing or formerly residing in the same dwelling unit.”

SECTION 2. Section 586-4, Hawaii Revised Statutes, is amended to read as follows:

“**§586-4 Temporary restraining order.** (a) Upon petition to a family court judge, a temporary restraining order may be granted without notice to restrain either or both parties from contacting, threatening, or physically abusing each other, notwithstanding that a complaint for annulment, divorce, or separation has not been filed. The order may be granted to any person who, at the time such order is granted, is a family or household member as defined in section 586-1 or who filed a petition on behalf of a family or household member. The order shall enjoin the respondent or person to be restrained from performing any combination of the following acts:

- (1) Contacting, threatening, or physically abusing the petitioner;
- (2) Contacting, threatening, or physically abusing any person residing at the petitioner’s residence;
- (3) Telephoning the petitioner;
- (4) Entering or visiting the petitioner’s residence; or
- (5) Contacting, threatening, or physically abusing the petitioner at work.

(b) The family court judge may issue the ex parte temporary restraining order orally, if the person being restrained is present in court. The order shall state that there is probable cause to believe that a [recent] past act or acts of abuse have occurred, or that threats of abuse make it probable that acts of abuse may be imminent. The order further<sup>1</sup> shall state that the temporary restraining order is necessary for the purpose of preventing acts of abuse[,] or preventing a recurrence of actual domestic abuse, and assuring a period of separation of the parties involved. The order shall describe in reasonable detail the act or acts sought to be restrained.



Where necessary, the order may require either or both of the parties involved to leave the premises during the period of the order, and [may] also may restrain the party or parties to whom it is directed from contacting, threatening, or physically abusing the applicant's family or household members. The order shall not only be binding upon the parties to the action, but also upon their officers, agents, servants, employees, attorneys, or any other persons in active concert or participation with them. The order shall enjoin the respondent or person to be restrained from performing any combination of the following acts:

- (1) Contacting, threatening, or physically abusing the petitioner;
- (2) Contacting, threatening, or physically abusing any person residing at the petitioner's residence;
- (3) Telephoning the petitioner;
- (4) Entering or visiting the petitioner's residence; or
- (5) Contacting, threatening, or physically abusing the petitioner at work.

(c) When a temporary restraining order is granted pursuant to this chapter and the respondent or person to be restrained knows of the order, violation of the restraining order is a misdemeanor. A person convicted under this section shall undergo [treatment or counseling] domestic violence intervention at any available domestic violence program as ordered by the court. The court [shall] additionally shall sentence a person convicted under this section as follows:

- (1) For a first conviction for violation of the temporary restraining order, the person shall serve a mandatory minimum jail sentence of forty-eight hours[;] and be fined not less than \$150 nor more than \$500; provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine; and
- (2) For the second and any subsequent conviction for violation of the temporary restraining order, the person shall serve a mandatory minimum jail sentence of thirty days[.] and be fined not less than \$250 nor more than \$1,000; provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine. Upon conviction and sentencing of the defendant, the court shall order that the defendant immediately be incarcerated to serve the mandatory minimum sentence imposed; provided that the defendant may be admitted to bail pending appeal pursuant to chapter 804. The court may stay the imposition of the sentence if special circumstances exist.

The court may suspend any jail sentence, except for the mandatory sentences under paragraphs (1) and (2), upon condition that the defendant remain alcohol and drug-free, conviction-free, or complete court-ordered assessments or [counseling.] intervention. Nothing in this section shall be construed as limiting the discretion of the judge to impose additional sanctions authorized in sentencing for a misdemeanor.

(d) Any fines collected pursuant to subsection (c) shall be deposited into the spouse and child abuse special account established under section 601-3.6.'

SECTION 3. Section 586-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) On the earliest date that the business of the court will permit, but no later than fifteen days from the date the temporary restraining order is granted, the court [shall], after giving due notice to all parties, shall hold a hearing on the application requiring cause to be shown why the order should not continue. In the event that service has not been effected, the court may set a new date for the hearing; provided that [said] the date shall not exceed ninety days from the date the

temporary restraining order was granted. All parties shall be present at the hearing and may be represented by counsel.

The protective order may include all orders stated in the temporary restraining order and may provide [such] further relief, as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders establishing temporary visitation with regard to minor children of the parties and orders to either or both parties to participate in [treatment or counseling services.] domestic violence intervention.”

SECTION 4. Section 586-5.5, Hawaii Revised Statutes, is amended to read as follows:

“**§586-5.5 Protective order; additional orders.** (a) If after hearing all relevant evidence, the court finds that the respondent has failed to show cause why the order should not be continued and that a protective order is necessary to prevent domestic abuse or a recurrence of abuse, the court may order that a protective order be issued for such further period as the court deems appropriate, not to exceed three years from the date the protective order is granted.

The protective order may include all orders stated in the temporary restraining order and may provide [such] for further relief as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders establishing temporary visitation and custody with regard to minor children of the parties and orders to either or both parties to participate in [treatment or counseling] domestic violence intervention services. If the court finds that the party meets the requirements under section 334-59(a)(2), the court further may [further] order that the party be taken to the nearest facility for emergency examination and treatment.

(b) A protective order [which was granted for a period less than three years] may be extended for a period not to exceed three years from the [date] expiration of the [original] preceding protective order [was granted]. Upon application by a person or agency capable of petitioning under section 586-3, the court shall hold a hearing to determine whether the protective order should be extended. In making a determination, the court shall consider evidence of abuse and threats of abuse that occurred prior to the initial restraining order and whether good cause exists to extend the protective order.

The extended protective order may include all orders stated in the [temporary] preceding restraining order and may provide such further relief as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders establishing temporary visitation and custody with regard to minor children of the parties and orders to either or both parties to participate in [treatment or counseling] domestic violence intervention services. The court may [extend or] terminate the extended protective order at any time with the mutual consent of the parties.”

SECTION 5. Section 586-6, Hawaii Revised Statutes, is amended to read as follows:

“**§586-6 [Service] Notice of order.** Any order issued under this chapter shall either be personally served upon the respondent, or served by certified mail, unless the respondent was present at the hearing in which case the respondent [may be served by handing the respondent a filed copy of the order after the hearing.] shall be deemed to have notice of the order. A filed copy of each order issued under this chapter shall be served by regular mail upon the chief of police of each county.”

SECTION 6. Section 601-3.6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The account shall consist of fees remitted pursuant to sections 338-14.5 and 572-5, fines collected pursuant to section 586-4(c), interest and investment earnings, grants, donations, and contributions from private or public sources. All realizations of the account shall be subject to the conditions specified in subsection (b).”

SECTION 7. Section 706-623, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) When the court has sentenced a defendant to be placed on probation, the period of probation shall be as follows, unless the court enters the reason therefor on the record and sentences the defendant to a shorter period of probation:

- (a) Ten years upon conviction of a class A felony;
- (b) Five years upon conviction of a class B or class C felony;
- (c) One year upon conviction of a misdemeanor; except that upon a conviction under section 586-4, 586-11, or 709-906, the court may sentence the defendant to a period of probation not exceeding two years; or
- (d) Six months upon conviction of a petty misdemeanor.

The court, on application of a probation officer, on application of the defendant, or on its own motion, may discharge the defendant at any time. Prior to granting early discharge, the court shall afford the prosecuting attorney an opportunity to be heard. The terms of probation provided in this part, other than in this section, shall not apply to sentences of probation imposed under section 706-606.3.”

SECTION 8. Section 709-906, Hawaii Revised Statutes, is amended to read as follows:

“**§709-906 Abuse of family and household members; penalty.** (1) It shall be unlawful for any person, singly or in concert, to physically abuse a family or household member or to refuse compliance with the lawful order of a police officer under subsection (4). The police, in investigating any complaint of abuse of a family or household member, upon request, may transport the abused person to a hospital or safe shelter.

For the purposes of this section, “family or household member” means spouses[,] or reciprocal beneficiaries, former spouses[,] or reciprocal beneficiaries, [reciprocal beneficiaries, former reciprocal beneficiaries,] persons who have a child in common, parents, children, persons related by consanguinity, and persons jointly residing or formerly residing in the same dwelling unit.

(2) Any police officer, with or without a warrant, may arrest a person if the officer has reasonable grounds to believe that the person is physically abusing, or has physically abused, a family or household member and that the person arrested is guilty thereof.

(3) A police officer who has reasonable grounds to believe that the person is physically abusing, or has physically abused, a family or household member shall prepare a written report.

(4) Any police officer, with or without a warrant, may take the following course of action where the officer has reasonable grounds to believe that there was [recent] physical abuse or harm inflicted by one person upon a family or household member, regardless of whether the physical abuse or harm occurred in the officer’s presence:

- (a) The police officer may make reasonable inquiry of the family or household member upon whom the officer believes [recent] physical abuse or harm has been inflicted and other witnesses as there may be;
- (b) Where the police officer has reasonable grounds to believe that there is probable danger of further physical abuse or harm being inflicted by one person upon a family or household member, the police officer lawfully may order the person to leave the premises for a [cooling off] period of separation of twenty-four hours, during which time the person shall not initiate any contact, either by telephone or in person, with the family or household member; provided that the person is allowed to enter the premises with police escort to collect any necessary personal effects;
- (c) Where the police officer makes the finding referred to in paragraph (b) and the incident occurs after 12:00 p.m. on any Friday, or on any Saturday, Sunday, or legal holiday, the order to leave the premises and to initiate no further contact shall commence immediately and be in full force, but the twenty-four hour period shall be enlarged and extended until 4:30 p.m. on the first day following the weekend or legal holiday;
- (d) All persons who are ordered to leave as stated above shall be given a written warning citation stating the date, time, and location of the warning and stating the penalties for violating the warning. A copy of the warning citation shall be retained by the police officer and attached to a written report which shall be submitted in all cases. A third copy of the warning citation shall be given to the abused person;
- (e) If the person so ordered refuses to comply with the order to leave the premises or returns to the premises before the expiration of the [cooling off] period[,] of separation, or if the person so ordered initiates any contact with the abused person, the person shall be placed under arrest for the purpose of preventing further physical abuse or harm to the family or household member; and
- (f) The police officer may seize all firearms and ammunition that the police officer has reasonable grounds to believe were used or threatened to be used in the commission of an offense under this section.

(5) Abuse of a family or household member and refusal to comply with the lawful order of a police officer under subsection (4) are misdemeanors and the person shall be sentenced as follows:

- (a) For the first offense the person shall serve a minimum jail sentence of forty-eight hours; and
- (b) For a second offense and any other subsequent offense that occurs within one year of the previous offense, the person shall be termed a "repeat offender" and serve a minimum jail sentence of thirty days.

Upon conviction and sentencing of the defendant, the court shall order that the defendant immediately be incarcerated to serve the mandatory minimum sentence imposed; provided that the defendant may be admitted to bail pending appeal pursuant to chapter 804. The court may stay the imposition of the sentence if special circumstances exist.

(6) Whenever a court sentences a person pursuant to subsection (5), it also shall require that the offender undergo any available domestic violence [treatment and counseling] intervention programs ordered by the court. However, the court may suspend any portion of a jail sentence, except for the mandatory sentences under subsection (5)(a) and (b), upon the condition that the defendant remain arrest-free and conviction-free or complete [court ordered counseling.] court-ordered intervention.

(7) For any subsequent offense occurring within two years after a second misdemeanor conviction, the person shall be charged with a class C felony.

[(7)] (8) Any police officer who arrests a person pursuant to this section shall not be subject to any civil or criminal liability; provided that the police officer acts in good faith, upon reasonable belief, and does not exercise unreasonable force in effecting the arrest.

[(8)] (9) The family or household member who has been physically abused or harmed by another person may petition the family court, with the assistance of the prosecuting attorney of the applicable county, for a penal summons or arrest warrant to issue forthwith or may file a criminal complaint through the prosecuting attorney of the applicable county.

[(9)] (10) The respondent shall be taken into custody and brought before the family court at the first possible opportunity. The court may dismiss the petition or hold the respondent in custody, subject to bail. Where the petition is not dismissed, a hearing shall be set.

[(10)] (11) This section shall not operate as a bar against prosecution under any other section of this Code in lieu of prosecution for abuse of a family or household member.

[(11)] (12) It shall be the duty of the prosecuting attorney of the applicable county to assist any victim under this section in the preparation of the penal summons or arrest warrant.

[(12)] (13) This section shall not preclude the physically abused or harmed family or household member from pursuing any other remedy under law or in equity.

[(13)] (14) [If] When a person is ordered by the court to undergo any [treatment or counseling,] domestic violence intervention, that person shall provide adequate proof of compliance with the court's order. The court shall order a subsequent hearing at which the person is required to make an appearance, on a date certain, to determine whether the person has completed the ordered [treatment.] domestic violence intervention. The court may waive the subsequent hearing and appearance where a court officer has established that the person has completed the [treatment] intervention ordered by the court."

SECTION 9. Section 853-4, Hawaii Revised Statutes, is amended to read as follows:

**“§853-4 Chapter not applicable; when.** This chapter shall not apply when:

- (1) The offense charged involves the intentional, knowing, reckless, or negligent killing of another person;
- (2) The offense charged is a felony that involves the intentional, knowing, or reckless bodily injury or serious bodily injury of another person, or is a misdemeanor or petty misdemeanor that carries a mandatory minimum sentence and that involves the intentional, knowing, or reckless bodily injury or serious bodily injury of another person;
- (3) The offense charged involves a conspiracy or solicitation to intentionally, knowingly, or recklessly kill another person or to cause serious bodily injury to another person;
- (4) The offense charged is a class A felony;
- (5) The offense charged is nonprobationable;
- (6) The defendant has been convicted of any offense defined as a felony by the Hawaii Penal Code or has been convicted for any conduct that if perpetrated in this State would be punishable as a felony;
- (7) The defendant is found to be a law violator or delinquent child for the commission of any offense defined as a felony by the Hawaii Penal

Code or for any conduct that if perpetrated in this State would constitute a felony;

- (8) The defendant has a prior conviction for a felony committed in any state, federal, or foreign jurisdiction;
- (9) A firearm was used in the commission of the offense charged;
- (10) The defendant is charged with the distribution of a dangerous, harmful, or detrimental drug to a minor;
- (11) The defendant has been charged with a felony offense and has been previously granted deferred acceptance of guilty plea status for a prior offense, regardless of whether the period of deferral has already expired;
- (12) The defendant has been charged with a misdemeanor offense and has been previously granted deferred acceptance of guilty plea status for a prior felony, misdemeanor, or petty misdemeanor for which the period of deferral has not yet expired;
- (13) The offense charged is:
  - (A) Escape in the first degree;
  - (B) Escape in the second degree;
  - (C) Promoting prison contraband in the first degree;
  - (D) Promoting prison contraband in the second degree;
  - (E) Bail jumping in the first degree;
  - (F) Bail jumping in the second degree;
  - (G) Bribery;
  - (H) Bribery of a witness;
  - (I) Intimidating a witness;
  - (J) Bribery of or by a juror;
  - (K) Intimidating a juror;
  - (L) Jury tampering;
  - (M) Promoting prostitution in the first degree;
  - (N) Promoting prostitution in the second degree;
  - (O) Promoting prostitution in the third degree;
  - (P) Abuse of family and household members;
  - (Q) Sexual assault in the second degree;
  - (R) Sexual assault in the third degree.
  - (S) A violation of an order issued pursuant to chapter 586.

The court may adopt by rule other criteria in this area.”

SECTION 10. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 11. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 12. This Act shall take effect upon its approval.

(Approved July 15, 1998.)

**Note**

- 1. Should not be underscored.

## ACT 173

H.B. NO. 2667

A Bill for an Act Relating to Cruelty to Animals.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 711-1100, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

““Pet animal” means a dog, cat, rabbit, guinea pig, domestic rat or mouse, or caged birds (passeriformes, piciformes, and psittaciformes only).

“Necessary sustenance” means care sufficient to preserve the health and well-being of a pet animal, except for emergencies or circumstances beyond the reasonable control of the owner or caretaker of the pet animal, and includes but is not limited to the following requirements:

- (1) Food of sufficient quantity and quality to allow for normal growth or maintenance of body weight;
- (2) Open or adequate access to water in sufficient quantity and quality to satisfy the animal’s needs;
- (3) Access to protection from wind, rain, or sun; and
- (4) An area of confinement that has adequate space necessary for the health of the animal and is kept reasonably clean and free from excess waste or other contaminants that could affect the animal’s health.”

SECTION 2. Section 711-1109, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of cruelty to animals if the person intentionally, knowingly, or recklessly:

- (a) Overdrives, overloads, tortures, torments, cruelly beats or starves any animal, or causes or procures the overdriving, overloading, torture, torment, cruel beating or starving of any animal[;], or deprives a pet animal of necessary sustenance or causes such deprivation;
- (b) Mutilates, poisons, or kills without need any animal other than insects, vermin, or other pests;
- (c) Keeps, uses, or in any way is connected with or interested in the management of, or receives money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock, or other animal, and every person who encourages, aids, or assists therein, or who permits or suffers any place to be so kept or used;
- (d) Carries or causes to be carried, in or upon any vehicle or other conveyance, any animal in a cruel or inhumane manner; or
- (e) Assists another in the commission of any act of cruelty to any animal.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 15, 1998.)

ACT 174

H.B. NO. 2967

A Bill for an Act Relating to Surfing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds and declares that Hawaii is the cradle of surfing - he'e nalu - and that as both a recreational and sporting activity, it has significant historical and cultural importance to this State. Worldwide recognition of surfing's birthplace is undeniable and strengthened by the talents of Duke Paoa Kahanamoku in the early 1900's, who is regarded today as the "Father of International Surfing." Another Hawaiian ambassador, Rell Sunn, is credited with bringing respect and recognition to women's professional surfing.

Although surfing was practiced throughout Oceania prior to Western contact, scholars on the subject cite a definite Hawaiian-Polynesian influence and credit the greatest number of surfing legends to Hawaii. As such, records of Hawaiian oral tradition dating as far back as the 15th century describe surfing as an integral part of ancient culture, often involving contests, wagers, and courtships among the ali'i class.

The legislature recognizes that Hawaii is renowned for its massive winter waves, attracting surfers from dozens of countries to test their skills in the sport's most prestigious event of the world professional tour, the Triple Crown of Surfing. By all accounts, Hawaii is the mecca of the surfing world thanks to two fundamental factors:

- (1) "Surfing ambassadors" who embodied the proud legacy of their ancestors and who shared that legacy with people on distant beaches around the globe; and
- (2) Waves of tremendous height and power associated with Oahu's infamous North Shore, and more recently with Maui's deep-water breaks off Peahi and Spreckelsville where jet-skis assist surfers in riding some of the biggest waves ever.

The legislature further finds that the International Olympic Committee formally recognized the International Surfing Association in 1995, formally welcoming the sport of surfing to the Olympic Movement. Its competitors and enthusiasts, estimated at more than fifteen million, have thus been provided the opportunity to petition for inclusion in the Summer Games of 2000 in Sydney, Australia.

The purpose of this Act is to bestow formal recognition on surfing as a special livelihood with deep cultural roots in Hawaii by designating it as the official state individual sport.

SECTION 2. Chapter 5, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§5- State individual sport.** Surfing is adopted, established, and designated as the official individual sport of the State."

SECTION 3. New statutory material is underscored.<sup>1</sup>



SECTION 4. This Act shall take effect upon its approval.

(Approved July 15, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 175**

H.B. NO. 3528

A Bill for an Act Relating to Employment Practices.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 378, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§378- Employer inquiries into conviction record.** (a) Subject to subsection (b), an employer may inquire about and consider an individual’s criminal conviction record concerning hiring, termination, or the terms, conditions, or privileges of employment; provided that the conviction record bears a rational relationship to the duties and responsibilities of the position.

(b) Inquiry into and consideration of conviction records for prospective employees shall take place only after the prospective employee has received a conditional offer of employment which may be withdrawn if the prospective employee has a conviction record that bears a rational relationship to the duties and responsibilities of the position.

(c) For purposes of this section, “conviction” means an adjudication by a court of competent jurisdiction that the defendant committed a crime, not including final judgments required to be confidential pursuant to section 571-84; provided that the period for which the employer may examine the employee’s conviction record shall not exceed ten years.”

SECTION 2. Section 378-3, Hawaii Revised Statutes, is amended to read as follows:

**“§378-3 Exceptions.** Nothing in this part shall be deemed to:

- (1) Repeal or affect any law, ordinance, or government rule having the force and effect of law;
- (2) Prohibit or prevent the establishment and maintenance of bona fide occupational qualifications reasonably necessary to the normal operation of a particular business or enterprise, and that have a substantial relationship to the functions and responsibilities of prospective or continued employment;
- (3) Prohibit or prevent an employer, employment agency, or labor organization from refusing to hire, refer, or discharge any individual for reasons relating to the ability of the individual to perform the work in question;
- (4) Affect the operation of the terms or conditions of any bona fide retirement, pension, employee benefit, or insurance plan that is not intended to evade the purpose of this chapter; provided that this exception shall not be construed to permit any employee plan to set a maximum age requirement for hiring or a mandatory retirement age;
- (5) Prohibit or prevent any religious or denominational institution or organization, or any organization operated for charitable or educational

- purposes, that is operated, supervised, or controlled by or in connection with a religious organization, from giving preference to individuals of the same religion or denomination or from making a selection calculated to promote the religious principles for which the organization is established or maintained;
- (6) Conflict with or affect the application of security regulations or rules in employment established by the United States or the State;
  - (7) Require the employer to execute unreasonable structural changes or expensive equipment alterations to accommodate the employment of a person with a disability;
  - (8) Prohibit or prevent the department of education or private schools from considering criminal convictions in determining whether a prospective employee is suited to working in close proximity to children;
  - (9) Prohibit or prevent any financial institution in which deposits are insured by a federal agency having jurisdiction over the financial institution from denying employment to or discharging from employment any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, unless it has the prior written consent of the federal agency having jurisdiction over the financial institution to hire or retain the person;
  - (10) Preclude any employee from bringing a civil action for sexual harassment or sexual assault and infliction of emotional distress or invasion of privacy related thereto; provided that notwithstanding section 368-12, the commission shall issue a right to sue on a complaint filed with the commission if it determines that a civil action alleging similar facts has been filed in circuit court;
  - (11) Require the employer to accommodate the needs of a nondisabled person associated with or related to a person with a disability in any way not required by Title I of the Americans with Disabilities Act; [or]
  - (12) Prohibit or prevent a "health care facility," as defined in chapter 323D, from considering the record of a criminal conviction where the criminal offense is a relevant factor in determining the bona fide occupational qualifications for a position where an employee or prospective employee who has received an offer for employment is working in close proximity to patients[.]; or
  - (13) Prohibit or preclude an employer from considering a record of criminal conviction that bears a rational relationship to the duties and responsibilities of the position, pursuant to section 378- , with regard to prospective or continued employment."

SECTION 4.<sup>1</sup> This Act does not effect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 5.<sup>1</sup> Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 6.<sup>1</sup> This Act shall take effect upon its approval.

(Approved July 15, 1998.)

**Notes**

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

## ACT 176

H.B. NO. 3625

A Bill for an Act Relating to Government Reorganization.

*Be It Enacted by the Legislature of the State of Hawaii:*

## PART I

SECTION 1. The legislature finds that agriculture, for decades, a mainstay of the economy of State, is undergoing a significant period of transition. The downsizing of the sugar and pineapple industries is presenting unprecedented opportunity for the conversion of agriculture into a dynamic growth industry. For the first time in over a century, approximately one hundred thousand acres of arable land are available for the cultivation of diversified crops. Accompanying the release of vast acreages of land by sugarcane and pineapple plantations is the release of over one hundred million gallons of water per day. Agriculture, which according to a recent study contributes \$2,900,000,000 billion to the economic output of the State, is assuming an important role in the economic revitalization of the State. The twin goals of a vital and robust agricultural industry—agricultural self-sufficiency and the development of strong export markets for a diversity of agricultural products—are attainable in the foreseeable future.

The legislature further finds that economic opportunity on the scale presented by this period of transition requires that the State, working in concert with the private sector, do its utmost to protect and preserve in a timely manner infrastructural assets related to agriculture. These assets include irrigation systems, roads, drainage systems, processing facilities, workshops, and warehouses.

The legislature further finds that the development of a global economy imposes a discipline on agricultural enterprises throughout the State—agribusiness corporations, medium and large agricultural operations, and small family farms—to adapt to this new economic reality. The challenge of government and business is to devise new productive uses that are based upon strategies developed from detailed marketing analyses and by monitoring local, national, and international opportunities.

The legislature further finds that an agricultural sector in transition requires aggressive and dynamic leadership for the promotion and development of agricultural enterprises to coordinate industry development, to facilitate investments and co-ventures in viable enterprises, and to provide industry-wide services relating to marketing, transportation, shipping, agricultural processing, safety, and labor unions.

The purpose of this Act is to ensure that the department of agriculture is equipped with adequate powers and resources to enable it to effectively take advantage of these current opportunities. The department shall coordinate and administer programs to assist agricultural enterprises to facilitate the transition of agricultural infrastructure from plantation operations into other agricultural enterprises, to carry on the marketing analysis to direct agricultural industry evolution, and to provide the leadership for the development, financing, improvement, and enhancement of agricultural enterprises. Thus equipped, the department will be able to play an instrumental role in carrying out the federal mandate of section 5 (f) of The Admission Act, which stipulates that public lands held by the State of Hawaii as a public trust be used for, among other purposes, “the development of farm and home ownership on as widespread a basis as possible for the making of public improvements,” and the mandate of article XI, section 3, of the State Constitution which states: “The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure the avail-

ability of agriculturally suitable lands. The legislature shall provide standards and criteria to accomplish the foregoing.”

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to Title IV to be appropriately designated and to read as follows:

**“CHAPTER  
AQUACULTURE ADVISORY COUNCIL**

**§ -1 Establishment of the Hawaii aquaculture advisory council; membership.** There is established within the department of agriculture the Hawaii aquaculture advisory council, hereinafter referred to as the council, for the purpose of advising the board of agriculture on matters relating to aquaculture and the coordination of aquaculture activities among the various federal, state, and county agencies and private industry. The council shall be composed of thirteen voting members, and no more than ten nonvoting members, as follows:

- (1) Six shall be voting ex officio members to consist of the chairperson of the board of agriculture, the director of business, economic development, and tourism, the chairperson of the board of land and natural resources, the dean of the college of tropical agriculture and human resources, the director of the sea grant college program, and the chairperson of the Hawaiian homes commission; or their designated representatives;
- (2) Six shall be voting members representing state aquaculture producers and private aquaculture consultants and appointed by the governor pursuant to section 26-34;
- (3) One shall be a voting member appointed by the governor pursuant to section 26-34 and selected from the State’s aquaculture support industries such as feed manufacturing, marketing, and aquaculture equipment engineering; and
- (4) There shall be no more than ten nonvoting ex officio members to consist of the respective economic development officers or other officials as designated by the respective mayors of the city and county of Honolulu, the county of Hawaii, the county of Maui, and the county of Kauai, and may include the director of health, the director of the University of Hawaii’s Hawaii institute of marine biology, the director of the aquatic resources division of the department of land and natural resources, the state marine affairs advisor, the administrator of the office of Hawaiian affairs, and any other members deemed appropriate and appointed by the chairperson of the Hawaii aquaculture coordinating council.

The chairperson of the board of agriculture shall serve as the chairperson of the council. All members of the council shall serve without compensation but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of duties and responsibilities of the council.

**§ -2 Powers and duties.** The council shall advise the board of agriculture on matters relating to aquaculture development to include:

- (1) Proposing and preparing programmatic aquaculture development plans and policies which, upon approval of the board, shall serve as a guide for aquaculture development in the State;
- (2) Coordinating, evaluating, and monitoring all state aquaculture activities as they relate to the federal and county governments, public and

- private organizations and commercial enterprises, and the implementation of state aquaculture policies and plans;
- (3) Monitoring and supporting, as appropriate, state agency and private sector requests for federal grants and technical assistance;
  - (4) Promoting communication between private industry and government agencies, including consideration of problems, permit requirements, land availability, and availability of technical and financial assistance;
  - (5) Developing programs and projects to promote optimal development of aquaculture, including the development of criteria to measure program effectiveness; and
  - (6) Performing any other services that may be required by the governor, the legislature, and the board.

§ -3 **Annual report.** The Hawaii aquaculture advisory council shall submit an annual report on its implementation of this chapter to the governor, the board of agriculture, and the legislature prior to each regular session.

§ -4 **Personnel.** The department of agriculture shall provide staff support for the council to perform its duties and responsibilities.

§ -5 **State and county agency cooperation.** The council may request and shall receive from any department, division, board, bureau, commission, or agency of the State or any political subdivision thereof any assistance and data that it deems necessary or desirable to carry out its powers and duties.”

SECTION 3. Chapter 141, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§141- **Aquaculture program.** (a) There is established within the department an aquaculture program that shall:

- (1) Maintain cognizance of actions taken by industry and by federal, state, county, and private agencies in activities relating to aquaculture, and promote and support worthwhile aquaculture activities;
- (2) Serve as an information clearinghouse for aquaculture activities;
- (3) Coordinate development projects to investigate and solve biological and technical problems involved in raising selected species with commercial potential;
- (4) Actively seek federal funding for aquaculture activities;
- (5) Undertake activities required to develop and expand the aquaculture industry; and
- (6) Perform such other functions and activities as may be assigned by law.

(b) The chairperson of the board may employ temporary staff exempt from chapters 76 and 77.”

SECTION 4. Section 26-16, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) The board may delegate to the chairperson such duties, powers, and authority, or so much thereof, as may be lawful or proper for the performance of the functions vested in the board.

The chairperson of the board shall serve in a full-time capacity. The chairperson shall, in that capacity[, perform such]:

- (1) Perform such duties[,] and exercise such powers and authority, or so much thereof, as may be delegated to the chairperson by the board[.]; and
- (2) Identify problems related to agriculture and the appropriate state agencies and departments needed to solve the problem. With the approval of the governor, the designated agencies shall provide any necessary assistance to the chairperson until the problem is resolved.
- (c) The department shall [promote]:
  - (1) Promote the conservation, development, and utilization of agricultural resources in the State; [assist]
  - (2) Assist the farmers of the State and any others engaged in agriculture by research projects, dissemination of information, crop and livestock reporting service, market news service, and any other means of improving the well-being of those engaged in agriculture and increasing the productivity of the lands[, and administer];
  - (3) Administer the programs of the State relating to animal husbandry, entomology, farm credit, development and promotion of agricultural products and markets, and the establishment and enforcement of the rules on the grading and labeling of agricultural products[.]; and
  - (4) Administer the aquaculture program under section 141- .”

SECTION 5. Section 163D-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) [The board of directors of the corporation shall consist of eleven voting members, of whom eight shall be appointed by the governor for staggered terms. These eight members shall be selected on the basis of their knowledge, experience, and proven expertise in small and large businesses within the agricultural industry, agricultural economics, finance, marketing, and management. Of these eight members, four shall be selected by the senate president and four shall be selected by the speaker of the house of representatives; provided that two shall be from the city and county of Honolulu, two shall be from the county of Hawaii, two shall be from the county of Maui, and two shall be from the county of Kauai. The director of business, economic development, and tourism; the chairperson of the board of agriculture; and the chairperson of the board of land and natural resources, or their designated representatives, shall be ex-officio, voting members of the board. All members shall continue in office until their respective successors have been appointed and qualified. The board shall annually elect its chairperson from among its members provided that the chairperson shall not be an ex-officio member.] The board of directors of the corporation shall consist of the members of the board of agriculture.”

SECTION 6. Chapter<sup>1</sup> 171-2, Hawaii Revised Statutes, is amended to read as follows:

“**§171-2 Definition of public lands.** “Public lands” means all lands or interest therein in the State classed as government or crown lands previous to August 15, 1895, or acquired or reserved by the government upon or subsequent to that date by purchase, exchange, escheat, or the exercise of the right of eminent domain, or in any other manner; including submerged lands, and lands beneath tidal waters which are suitable for reclamation, together with reclaimed lands which have been given the status of public lands under this chapter, except:

- (1) Lands designated in section 203 of the Hawaiian Homes Commission Act, 1920, as amended;

- (2) Lands set aside pursuant to law for the use of the United States;
- (3) Lands being used for roads and streets;
- (4) Lands to which the United States relinquished the absolute fee and ownership under section 91 of the Hawaiian Organic Act prior to the admission of Hawaii as a state of the United States unless subsequently placed under the control of the board of land and natural resources and given the status of public lands in accordance with the State Constitution, the Hawaiian Homes Commission Act, 1920, as amended, or other laws;
- (5) Lands to which the University of Hawaii holds title;
- (6) Lands to which the housing and community development corporation of Hawaii in its corporate capacity holds title;
- (7) Lands to which the Hawaii community development authority in its corporate capacity holds title;
- (8) Lands to which the agribusiness development corporation in its corporate capacity holds title;
- [(8)]<sup>1</sup> (9) Lands to which the department of agriculture holds title by way of foreclosure, voluntary surrender, or otherwise, to recover moneys loaned; and
- [(9)]<sup>1</sup> (10) Lands which are set aside by the governor to the Aloha Tower development corporation; lands leased to the Aloha Tower development corporation by any department or agency of the State; or lands to which the Aloha Tower development corporation holds title in its corporate capacity.”

SECTION 7. Section 187A-2, Hawaii Revised Statutes, is amended to read as follows:

“**§187A-2 Powers and duties of department.** The department shall:

- (1) Manage and administer the aquatic life[,] and aquatic resources[, and aquaculture programs] of the State;
- (2) Establish and maintain aquatic life propagating station or stations;
- (3) Establish, manage, and regulate public fishing areas, artificial reefs, fish aggregating devices, marine life conservation districts, shoreline fishery management areas, refuges, and other areas pursuant to title 12;
- (4) Subject to this title, import aquatic life for the purpose of propagating and disseminating the same in the State and the waters subject to its jurisdiction;
- (5) Distribute, free of charge, as the department deems to be in the public interest, aquatic life, for the purpose of increasing the food supply of the State; provided that when, in the discretion of the department, the public interest shall not be materially interfered with by so doing, the department may propagate and furnish aquatic life to private parties, upon such reasonable terms, conditions, and prices determined by the department;
- (6) Gather and compile information and statistics concerning the habitat and character of, and increase and decrease in, aquatic resources in the State, including the care and propagation of aquatic resources for protective, productive, and aesthetic purposes, and other useful information, which the department deems proper;
- (7) Enforce all laws relating to the protecting, taking, killing, propagating, or increasing of aquatic life within the State and the waters subject to its jurisdiction; and

- (8) Formulate and from time to time recommend to the governor and legislature such additional legislation necessary or desirable to implement the objectives of title 12.”

SECTION 8. Section 201-3, Hawaii Revised Statutes, is amended to read as follows:

**“§201-3 Specific research and promotional functions of the department.**

Without prejudice to its general functions and duties the department of business, economic development, and tourism shall have specific functions in the following areas:

- (1) Agricultural development. The department shall:
  - (A) Conduct surveys and feasibility studies to determine the need for and value of additional research in the production of agricultural commodities, and the processing and marketing of agricultural food products;
  - (B) Promote an informational program directed to the consuming public both in Hawaii and in the mainland United States relative to the qualities of agricultural commodities produced in Hawaii and in the maximum utilization of same, including processed agricultural food products; and
  - (C) Make grants to and contracts with appropriate agencies, firms, or individuals for surveys, studies, research, and promotion.

With respect to agricultural development, the department’s activities shall be consistent with the policies, programs, and activities of the board of agriculture and the agribusiness development corporation;

- (2) (1) Industrial development. The department shall determine through technical and economic surveys the profit potential of new or expanded industrial undertakings; develop through research projects and other means new and improved industrial products and processes; promote studies and surveys to determine consumer preference as to design and quality and to determine the best methods of packaging, transporting, and marketing the State’s industrial products; disseminate information to assist the present industries of the State, to attract new industries to the State, and to encourage capital investment in present and new industries in the State; assist associations of producers and distributors of industrial products to introduce such products to consumers; and make such grants or contracts as may be necessary or advisable to accomplish the foregoing;
- (3) (2) Land development. The department shall encourage the most productive use of all land in the State in accordance with a general plan developed by the department; encourage the improvement of land tenure practices on leased private lands; promote an informational program directed to landowners, producers of agricultural and industrial commodities, and the general public regarding the most efficient and most productive use of the lands in the State; and make such grants or contracts as may be necessary or advisable to accomplish the foregoing;
- (4) (3) Credit development. The department shall conduct a continuing study of agricultural and industrial credit needs; encourage the development of additional private and public credit sources for agricultural and industrial enterprises; promote an informational program to acquaint financial institutions with agricultural and industrial credit needs and the potential for agricultural and industrial expansion, and inform



producers of agricultural and industrial products as to the manner in which to qualify for loans; and make such grants or contracts as may be necessary or advisable to accomplish the foregoing; and

- [(5)] (4) Promotion. The department shall disseminate information developed for or by the department pertaining to economic development to assist present industry in the State, attract new industry and investments to the State, and assist new and emerging industry with good growth potential or prospects in jobs, exports, and new products. The industrial and economic promotional activities of the department may include the use of literature, advertising, demonstrations, displays, market testing, lectures, travel, motion picture and slide films, and such other promotional and publicity devices as may be appropriate.

The department shall be the central agency to coordinate film permit activities in the State.”

SECTION 9. Section 187A-3, Hawaii Revised Statutes, is repealed.

SECTION 10. Chapter 189G, Hawaii Revised Statutes, is repealed.

SECTION 11. All rights, powers, functions, and duties of the aquaculture program of the department of land and natural resources are transferred to the department of agriculture.

All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided that the officer or employee possesses the minimum qualifications for the position to which transferred or appointed; and provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

If an office or position held by an officer or employee having tenure is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department or the governor.

SECTION 12. All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personnel property heretofore made, used, acquired, or held by the aquaculture program of the department of land and natural resources relating to the functions transferred to the department of agriculture shall be transferred with the functions to which they relate.

## PART II

SECTION 13. The purpose of this part is to amend the funding mechanism for the financial services assistance program of the department of business, economic development, and tourism by making the capital loan revolving fund the primary source of revenue for the program.

SECTION 14. Section 201C-3, Hawaii Revised Statutes, is amended to read as follows:

**“§201C-3 Financial assistance program; source of funds.** (a) All moneys to carry out the purposes of the financial services assistance program under this chapter shall be allocated by the legislature through appropriations out of the [state general fund.] Hawaii capital loan revolving fund established pursuant to section 210-3. The department shall include in its budgetary request for each upcoming fiscal period, the amounts necessary to effectuate the purposes of this section.

(b) All moneys received in repayment of loan principal, payment of interest, or fees, under this chapter shall be deposited to the credit of [state general fund.] Hawaii capital loan revolving fund established pursuant to section 210-3.”

SECTION 15. Section 210-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established the Hawaii capital loan revolving fund into which shall be deposited all moneys received as repayment of loans and interest payments as provided in this chapter. The department may utilize a portion of the moneys contained in the Hawaii capital loan revolving fund for programs associated with administering the fund and its mandated purpose. The department may transfer moneys from the Hawaii capital loan revolving fund established by this section to either the state disaster revolving loan fund established by section 209-34, or the Hawaii innovation development fund established by section 211E-2, and moneys from these three funds shall be disbursed by the department or the director pursuant to chapters 209, 210, and 211E, respectively. The department or the director may transfer moneys from the state disaster revolving loan fund and the Hawaii innovation development fund to the Hawaii capital loan revolving fund for disbursement pursuant to this chapter.”

### PART III

SECTION 16. It is the intent of this Act to neither jeopardize the receipt of any federal aid nor to impair the obligation of the State or any agency thereof to persons with which it has existing contracts or the holder of any bond issued by the State or by any such agency, and to the extent, and only to the extent necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with reasons therefor to the legislature at its next session thereafter for review by that body. The rules under this Act shall meet the federal requirements that are a necessary condition to the receipt for federal funds by the State.

SECTION 17. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end, the provisions of this Act are severable.

SECTION 18. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 19. This Act shall take effect on July 1, 1998; provided that section 5 shall take effect on July 1, 1999.

(Approved July 15, 1998.)

### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

## ACT 177

S.B. NO. 2254

A Bill for an Act Relating to Prostitution.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the problem of prostitution has adversely affected our visitor industry and poses a public health problem for prostitutes and their customers. The legislature further finds that prostitution is a multifaceted problem involving childhood physical and sexual abuse, domestic violence, and substance abuse. Unfortunately, prostitution has a long history and solutions posed through the criminal justice system have not been effective in mitigating the problem.

Innovative strategies for an incremental development plan should be explored and implemented to assist adults and children to free themselves from the sex industry through direct intervention. In these difficult economic times, any effort by the State to assist in the development of a comprehensive system of intervention must be necessarily limited by existing resources. Government can support and encourage community organizations to focus existing private and public resources more efficiently and effectively. This will require establishing more permanent working relationships among communities, the private sector, and government.

The purpose of this Act is to recognize a public and private partnership between the State and a private nonprofit organization dedicated to helping adults and children free themselves from a life of prostitution and educating them about alternate life choices.

SECTION 2. Section 712-1200, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

“(4) A person convicted of committing the offense of prostitution shall be sentenced as follows:

- (a) For the first offense, when the court has not deferred further proceedings pursuant to chapter 853, a mandatory fine of \$500 and the person may be sentenced to a term of imprisonment of not more than thirty days or probation; provided[, ] that in the event the convicted person defaults in payment of the \$500 fine, and the default was not contumacious, the court may sentence the person to perform services for the community as authorized by section 706-605(1).
- (b) For any subsequent offense, a mandatory fine of \$500 and a term of imprisonment of thirty days or probation, without possibility of deferral of further proceedings pursuant to chapter 853 and without possibility of suspension of sentence [or probation].
- (c) For the purpose of this subsection, if the court has deferred further proceedings pursuant to chapter 853, and notwithstanding any provision of chapter 853 to the contrary, the defendant shall not be eligible to apply for expungement pursuant to section 831-3.2 until four years following discharge. A plea previously entered by a defendant under section 853-1 for a violation of this section shall be considered a prior offense. When the court has ordered a sentence of probation, the court may impose as a condition of probation that the defendant complete a course of prostitution intervention classes; provided that the court may only impose such condition for one term of probation.’”

**ACT 178**

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 15, 1998.)

**ACT 178**

S.B. NO. 2297

A Bill for an Act Relating to Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Health care is an evolving industry. New technologies, procedures, and pharmaceuticals have contributed to better health care for the consumer. However, new advances in medicine are not cheap. One problem with health care has been rising costs. One way health plans attempt to deal with rising costs of medicine is through managed care. Major features of a managed care system are prevention, use of "gatekeepers", and capitation.

Managed care has evolved, and Hawaii has been fortunate not to experience the questionable practices of certain entities engaging in managed care. Nevertheless, legitimate concerns provide the legislature with sufficient reason to protect the citizens of this State from certain practices of managed care.

The purpose of this Act is to create a new chapter to afford patients of managed care systems certain rights and protections.

SECTION 2. Title 24, Hawaii Revised Statutes, is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER  
HAWAII PATIENT BILL OF RIGHTS AND RESPONSIBILITIES ACT**

§ -1 **Definitions.** As used in this chapter, unless the context otherwise requires:

"Appeal" means a request from an enrollee to change a previous decision made by the managed care plan.

"Commissioner" means the insurance commissioner.

"Complaint" means an expression of dissatisfaction, either oral or written.

"Emergency services" means services provided to an enrollee when the enrollee has symptoms of sufficient severity that a layperson could reasonably expect, in the absence of medical treatment, to result in placing the enrollee's health or condition in serious jeopardy, serious impairment of bodily functions, serious dysfunction of any bodily organ or part, or death.

"Enrollee" means a person who enters into a contractual relationship or who is provided with health care services or benefits through a managed care plan.

"Health maintenance organization" means a health maintenance organization as defined in section 432D-1.

"Managed care plan" means any plan, regardless of form, offered or administered by any person or entity, including but not limited to an insurer governed by chapter 431, a mutual benefit society governed by chapter 432, a health maintenance organization governed by chapter 432D, a preferred provider organization, a point of service organization, a health insurance issuer, a fiscal intermediary,

a payor, a prepaid health care plan, and any other mixed model, that provides for the financing or delivery of health care services or benefits to enrollees through:

- (1) Arrangements with selected providers or provider networks to furnish health care services or benefits; and
- (2) Financial incentives for enrollees to use participating providers and procedures provided by a plan;

provided, that for the purposes of this chapter, an employee benefit plan shall not be deemed a managed care plan with respect to any provision of this chapter or to any requirement or rule imposed or permitted by this chapter which is superseded or preempted by federal law.

“Participating provider” means a licensed or certified provider of health care services or benefits, including mental health services and health care supplies, that has entered into an agreement with a managed care plan to provide those services or supplies to enrollees.

**§ -2 Conflict with other laws.** If there is a conflict with any other law, this chapter shall prevail to the extent that this chapter offers greater protection or rights to the enrollee.

**§ -3 Access to services.** A managed care plan shall demonstrate to the commissioner upon request that its plan:

- (1) Makes benefits available and accessible to each enrollee electing the managed care plan in the defined service area with reasonable promptness and in a manner which promotes continuity in the provision of health care services;
- (2) Provides access to sufficient numbers and types of providers to ensure that all covered services will be accessible without unreasonable delay;
- (3) When medically necessary, provides health care services twenty-four hours a day, seven days a week;
- (4) Provides a reasonable choice of qualified providers of women’s health services such as gynecologists, obstetricians, certified nurse-midwives, and advanced practice nurses to provide preventive and routine women’s health care services; and
- (5) Provides payment or reimbursement for emergency services.

**§ -4 Enrollee participation in treatment decisions.** (a) An enrollee shall have the right to be informed fully prior to making any decision about any treatment, benefit, or nontreatment.

(b) In order to inform enrollees fully, the provider shall:

- (1) Discuss all treatment options with an enrollee and include the option of no treatment at all;
- (2) Ensure that persons with disabilities have an effective means of communication with the provider and other members of the managed care plan; and
- (3) Discuss all risks, benefits, and consequences to treatment and nontreatment.

(c) The provider shall discuss with the enrollee and the enrollee’s immediate family both living wills and durable powers of attorney in relation to medical treatment, as provided for in chapter 327D and section 551D-2.5.

(d) A managed care plan shall be prohibited from imposing any type of prohibition, disincentive, penalty, or other negative treatment upon a provider for discussing or providing any information regarding treatment options and medically necessary or appropriate care, including no treatment, even if the information relates to services or benefits not provided by the managed care plan.

§ -5 **Complaints and appeals procedure for enrollees.** (a) A managed care plan with enrollees in this State shall establish and maintain a procedure to provide for the resolution of an enrollee's complaints and appeals.

(b) The managed care plan at all times shall make available its complaints and appeals procedures. The complaints and appeals procedures shall be reasonably understandable to the average layperson and shall be provided in languages other than English upon request.

§ -6 **Appeals to the commissioner.** (a) After exhausting all internal complaint and appeal procedures available, an enrollee may appeal an adverse decision of a managed care plan to a three member review panel appointed by the commissioner composed of a representative from a health plan not involved in the complaint, a provider licensed to practice and practicing medicine in Hawaii not involved in the complaint, and the commissioner or the commissioner's designee in the following manner:

- (1) The enrollee shall submit a request for review to the commissioner within thirty days from the date of the final determination by the managed care plan.
- (2) Upon receipt of the request and upon a showing of good cause, the commissioner shall appoint the members of the panel and shall conduct a review hearing pursuant to chapter 91.
- (3) After considering the enrollee's complaint, the plan's response, and any affidavits filed by the parties, the commissioner may dismiss the appeal if it is determined that the appeal is frivolous or without merit.

The commissioner, upon a majority vote of the panel, shall issue an order affirming, modifying, or reversing the decision within thirty days of the hearing.

(b) The procedure set forth in this section shall not apply to claims or allegations of health provider malpractice, professional negligence, or other professional fault against participating providers.

(c) The commissioner may adopt rules pursuant to chapter 91 to carry out the purposes of this section.

§ -7 **Information to enrollees.** (a) The managed care plan shall provide to its enrollees upon enrollment and thereafter upon request the following information:

- (1) A list of participating providers which shall indicate their specialty and whether board certification has been attained;
- (2) A complete description of benefits, services, and copayments;
- (3) A statement on enrollee's rights, responsibilities, and obligations;
- (4) An explanation of the referral process, if any;
- (5) Where services or benefits may be obtained;
- (6) A statement regarding informed consent;
- (7) Information on complaints and appeals procedures; and
- (8) The telephone number of the insurance division and the office of consumer complaints.

This information shall be provided to prospective enrollees upon request.

(b) Every managed care plan shall provide to its enrollees notice of any material change in the operation of the organization initiated by the plan that will affect them directly within thirty days of the material change.

(c) For purposes of this section "material change" means a change in participating provider agreements, services, or benefits.

§ -8 **Enforcement.** All remedies, penalties, and proceedings in articles 2 and 13 of chapter 431 made applicable hereby to managed care plans shall be invoked and enforced solely and exclusively by the commissioner.

§ **-9 Utilization review.** (a) Every managed care plan shall establish procedures for continuous review of quality of care, performance of providers, utilization of health services, facilities, and costs.

(b) Notwithstanding any other provision of law, there shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any person who participates in quality of care or utilization reviews by peer review committees for any act performed during the reviews if the person acts without malice, makes a reasonable effort to obtain the facts, and believes that the action taken is warranted by the facts.

(c) No peer review committee under this section shall be subject to discovery, and no person in attendance at the reviews shall be required to testify as to what transpired at the reviews. The utilization review requirements and administrative treatment guidelines of the health maintenance organization shall not fall below the appropriate standard of care and shall not impinge upon the independent medical judgment of the treating health care provider.

(d) Nothing in this section shall be construed to prevent a health maintenance organization from conducting a utilization review and quality assurance program.

§ **-10 Managed care plan performance measurement and data reporting standards.** (a) It is the policy of this State that all managed care plans shall adopt and comply with nationally developed and promulgated standards for measuring quality, outcomes, access, satisfaction, and utilization of services. Every contract between a managed care plan and a participating provider of health care services shall require the participating provider to comply with the managed care plan's requests for any information necessary for the managed care plan to comply with the requirements of this chapter. The standard to be applied is the Health Employer Data and Information Set (HEDIS) 3.0 data set, as amended from time to time. The State shall require that:

- (1) Consumers, providers, managed care plans, purchasers, and regulators shall be equitably represented in the development of standards; and
- (2) Standards shall result in measurement and reporting that is purposeful, valid and scientifically based, applied in a consistent and comparable manner, efficient and cost effective, and designed to minimize redundancy and duplication of effort.

(b) All managed care plans, no less than annually, shall report to the commissioner comparable information on performance, including measures of quality, outcomes, access, satisfaction, and utilization of services; provided that:

- (1) Reporting shall be based upon a core data and information set that builds upon nationally recognized performance measurement systems. The core data and information set shall include standardized measures of:
  - (A) Effectiveness and appropriateness of care (the impact of care delivered to managed care plan enrollees, including results of the plan for childhood immunizations, cholesterol screening, mammography screening, cervical cancer screening, prenatal visits in the first trimester of pregnancy, and diabetic retinal examinations);
  - (B) Access and availability of care (the extent to which plan enrollees have access to the health care providers they need or desire to see, and receive appropriate services in a timely manner, without inappropriate barriers or inconvenience);
  - (C) Satisfaction with the experience of care (the results of the most recent enrollee satisfaction survey using standardized survey design and methods);

- (D) Managed care plan stability (attributes of a managed care plan which affect its ability to deliver high-quality care and service on a sustained basis);
  - (E) Use of services (rates of service use per 1,000 enrollees as well as percentages of enrollees who receive specified services);
  - (F) Cost of care (expenditures per enrollee per month, premium rates for selected membership categories, and rates of increases); and
  - (G) Managed care plan descriptive information (the plan name, location of headquarters, and number of years the plan has been in business; the model type of the plan; the counties in which the plan operates; the total number of participating physicians per 1,000 enrollees and the number of primary care physicians per 1,000 enrollees; the number of participating hospitals per 10,000 enrollees; the percentage of participating physicians who are board certified; and a list of wellness and health care education programs offered by the plan);
- (2) Information shall be uniformly reported by managed care plans in a standardized format, as determined by rule;
  - (3) Information supplied by managed care plans shall be subject to independent audit by the appropriate regulatory agency or its designee to verify accuracy and protect against misrepresentation;
  - (4) Information reported by managed care plans shall be adjusted, based on standardized methods, to control for the effects of differences in health risk, severity of illness, or mix of services;
  - (5) A managed care plan shall ensure confidentiality of records and shall not disclose individually identifiable data or information pertaining to the diagnosis, treatment, or health of any enrollee, except as provided under law; and
  - (6) A managed care plan shall disclose to its enrollees the quality and satisfaction assessments used, including the current results of the assessments.’’

SECTION 3. Section 432:1-102, Hawaii Revised Statutes, is amended to read as follows:

**“§432:1-102 Applicability of other laws [to nonprofit medical indemnity or hospital service associations: health care coverage for senior citizens].** (a) Part III of article 10A of [the insurance code] chapter 431 shall apply to nonprofit medical indemnity or hospital service associations. Such associations shall be exempt from the provisions of part I of article 10A; provided that such exemption is in compliance with applicable federal statute<sup>1</sup> and regulations.

(b) Article 2 and article 13 of chapter 431, and the powers there granted to the commissioner, shall apply to managed care plans, health maintenance organizations, or medical indemnity or hospital service associations, which are owned or controlled by mutual benefit societies, so long as such application in any particular case is in compliance with and is not preempted by applicable federal statutes and regulations.’’

SECTION 4. Section 432D-19, Hawaii Revised Statutes, is amended to read as follows:

**“[[§432D-19]] Statutory construction and relationship to other laws.** (a) Except as provided in subsection (d) and otherwise provided in this chapter, the insurance laws and hospital or medical service corporation laws shall not apply to



the activities authorized and regulated under this chapter of any any health maintenance organization granted a certificate of authority under this chapter. This chapter shall not apply to an insurer or hospital or medical service corporation licensed and regulated pursuant to the insurance laws or the hospital or medical service corporation laws of this State except with respect to its health maintenance organization activities authorized and regulated pursuant to this chapter.

(b) Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, shall not be construed to violate any provision of law relating to solicitation or advertising by health professionals.

(c) Any health maintenance organization granted a certificate of authority under this chapter shall not be deemed to be practicing medicine and shall be exempt from the provision of chapter 453 relating to the practice of medicine or chapter 460 relating to the practice of osteopathic medicine.

(d) Article 2 and article 13 of chapter 431, and the power there granted to the commissioner, shall apply to health maintenance organizations, so long as such application in any particular case is in compliance with and is not preempted by applicable federal statutes and regulations.”

SECTION 5. (a) The insurance commissioner shall convene a task force comprised of various members from the public and private sector to review various laws which provide protection of patient rights and responsibilities in regards to health care, especially managed care.

(b) The task force shall review this Act and determine whether consumer rights are fully protected under this Act and whether any further action is needed to ensure such protection.

(c) The task force shall be comprised of interested parties with the total membership of the task<sup>2</sup> between twelve and twenty members. The insurance commissioner or the commissioner's designated representative, shall be a member and serve as the chair of the task force and appoint it<sup>2</sup> remaining members. At least one representative from each of the following shall be appointed as a member; members of other groups may also be appointed:

- (1) The department of health;
- (2) The department of labor and industrial relations, disability compensation division;
- (3) A health insurance company that provides accident and sickness policies under chapter 431, article 10A, Hawaii Revised Statutes;
- (4) A mutual benefit society that provides health insurance under chapter 432, Hawaii Revised Statutes;
- (5) A health maintenance organization that holds a certificate of authority under chapter 432D, Hawaii Revised Statutes;
- (6) The American Association of Retired Persons;
- (7) The Hawaii Coalition for Health;
- (8) The Hawai'i Business Health Coalition;
- (9) The Legal Aid Society of Hawaii;
- (10) The Hawaii Medical Association;
- (11) An organization that represents nurses; and
- (12) A hospital or an organization that represents hospitals.

(d) The task force shall submit its preliminary findings and recommendations to the legislature not later than twenty days prior to the convening of the 1999 regular session.

(e) The task force shall continue until terminated by the insurance commissioner.

## ACT 179

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved July 15, 1998.)

### Notes

1. Prior to amendment "statutes" appeared here.
2. So in original.

## ACT 179

S.B. NO. 2619

A Bill for an Act Relating to Fair Trade Regulations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 480, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§480- Additional civil penalties for consumer frauds committed against elders.** (a) If a person commits a violation under section 480-2 which is directed toward, targets, or injures an elder, a court, in addition to any other civil penalty, may impose a civil penalty not to exceed \$10,000 for each violation.

(b) In determining the amount, if any, of civil penalty under subsection (a), the court shall consider the following:

- (1) Whether the person’s conduct was in wilful disregard of the rights of the elder;
- (2) Whether the person knew or should have known that the person’s conduct was directed toward or targeted an elder;
- (3) Whether the elder was more vulnerable to the person’s conduct than other consumers because of age, poor health, infirmity, impaired understanding, restricted mobility, or disability;
- (4) The extent of injury, loss, or damages suffered by the elder; and
- (5) Any other factors the court deems appropriate.

(c) As used in this chapter, “elder” means a consumer who is sixty-two years of age or older.”

SECTION 2. Section 480-13, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Any consumer who is injured by any unfair or deceptive act or practice forbidden or declared unlawful by section 480-2:

- (1) May sue for damages sustained by the consumer[,] and, if the judgment is for the plaintiff, the plaintiff shall be awarded a sum not less than \$1,000 or threefold damages by the plaintiff sustained, whichever sum is the greater, and reasonable [attorneys] attorneys’ fees together with the costs of suit; [and] provided that where the plaintiff is an elder, the plaintiff, in the alternative, may be awarded a sum not less than \$5,000

or threefold any damages sustained by the plaintiff, whichever sum is the greater, and reasonable attorneys' fees together with the costs of suit. In determining whether to adopt the \$5,000 alternative amount in an award to an elder, the court shall consider the factors set forth in section 480- ; and

- (2) May bring proceedings to enjoin the unlawful practices, and if the decree is for the plaintiff, the plaintiff shall be awarded reasonable [attorneys] attorneys' fees together with the cost of suit."

SECTION 3. Section 487-14, Hawaii Revised Statutes, is amended to read as follows:

**“§487-14 Restitution.** (a) In any action brought by the director of the office of consumer protection, the court may include in its orders or judgments such provisions as may be necessary to effect restitution. Any person in whose favor restitution is ordered need not accept restitution, but the person's acceptance and full performance of restitution shall bar recovery by the person of any other damages in any action on account of the same acts or practices against the person making restitution.

(b) Whenever a corporation is ordered to pay restitution under subsection (a), the court hearing the action may include in its orders or judgments that the corporation and the individual directors, officers, or agents of the corporation who authorized, ordered, or had done, or participated in any of the unlawful acts and practices which caused, in whole or in part, injuries to any person, are jointly and severally liable for the payment of restitution.

(c) Whenever a domestic or foreign limited liability company is ordered to pay restitution under subsection (a), the court hearing the action may include in its orders or judgments that the limited liability company and the individual members, managers, or agents of the limited liability company who authorized, ordered, had done, or participated in any of the unlawful acts and practices that caused, in whole or in part, injuries to any person, are jointly and severally liable for the payment of restitution.

(d) The office of consumer protection may establish and maintain an account for purposes of holding and disbursing moneys received or recovered by it and which are due consumers as restitution.

(e) The director of the office of consumer protection may assign to a consumer for collection that portion of any judgment awarding restitution to that consumer.

(f) If a person commits a violation of section 480-2 which is directed toward, targets, or injures an elder, the court, in addition to the restitution authorized by section (a), may award the elder an additional sum up to but not to exceed the amount of restitution ordered in subsection (a). In determining the amount, if any, of an award under this subsection, the court shall consider the factors set forth in section 480- .”

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

## ACT 180

SECTION 6. This Act shall take effect upon its approval.

(Approved July 15, 1998.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 180

S.B. NO. 2633

A Bill for an Act Relating to Real Property Appraisals.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 466K, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§466K- Practice as a real estate appraiser; uniform standards.** No person may practice as a real estate appraiser in this State unless that person has been licensed or certified to practice in accordance with this chapter and rules adopted by the director of commerce and consumer affairs pursuant to chapter 91. All real estate appraisers who are licensed or certified to practice in this State shall comply with the current uniform standards of professional appraisal practice approved by the director when performing appraisals in connection with a federally or non-federally related real estate transaction.”

SECTION 2. Section 466K-1, Hawaii Revised Statutes, is amended to read as follows:

**“§466K-1 Findings and purpose.** The legislature finds that the regulation of real estate appraisers is reasonably necessary to protect consumers. The legislature further finds that 12 United States Code §3301 et seq. requires that real estate appraisals utilized in connection with federally related transactions be performed by individuals who are certified appraisers. [It is the purpose] The purposes of this chapter are to implement the requirements of 12 United States Code §3301 et seq. and to require that all real estate appraisals be performed by licensed or certified appraisers.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved July 15, 1998.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 181

S.B. NO. 2957

A Bill for an Act Relating to Outdoor Advertising.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 445-114, Hawaii Revised Statutes, is amended to read as follows:

“**§445-114 Unlawful posting in public places.** (a)<sup>1</sup> [It shall be unlawful for any person, except] Except for a public officer in performance of a public duty, or a private person in giving legal notice[,] on other than utility poles, it shall be unlawful for any person to paste, post, paint, print, nail, tack, or otherwise fasten any card, banner, handbill, sign, poster, outdoor advertising device, or notice of any kind or cause the same to be done, on any curbstone, lamp-post, [pole, hitching post, watering trough,] utility pole, street-light pole, hydrant, bridge, tree, street sign, traffic sign, or traffic light upon any public property in the State, except as may be required by the ordinances of the county where it is posted, or by the laws of this State or of the United States.”

SECTION 2. Section 445-121, Hawaii Revised Statutes, is amended to read as follows:

“**§445-121 Penalty.** (a) Any person violating any provision of sections 445-111 to 445-121 shall be fined not less than \$25 nor more than \$500, or imprisoned not more than one month, or both.

(b) In addition to subsection (a), any person acting knowingly, who is either:

(1) Responsible for posting material in violation of section 445-114; or

(2) The person organizing the event or the owner or operator of the business advertised on the posted material,

shall remove the material within seventy-two hours after receipt of written notice of the posting or seventy-two hours after the date of the event advertised on the posted material, whichever occurs first. Failure to remove the posted material within the time specified shall be punishable by an additional fine of not less than \$100 nor more than \$200 per posted material, or community service of not less than ten hours nor more than twenty hours, or both. Such additional penalties shall not be imposed unless the person received written notice of the posting or was responsible for posting material in violation of section 445-114.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 15, 1998.)

**Note**

1. No subsection (b) designation.

A Bill for an Act Relating to Job Reference Liability.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 663, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§663 -Providing information to prospective employers in good faith.**

(a) An employer that provides to a prospective employer information or opinion about a current or former employee’s job performance is presumed to be acting in good faith and shall have a qualified immunity from civil liability for disclosing the information and for the consequences of the disclosure.

(b) The good faith presumption under subsection (a) shall be rebuttable upon a showing by a preponderance of the evidence that the information or opinion disclosed was:

- (1) Knowingly false; or
- (2) Knowingly misleading.

(c) Nothing in this section shall affect rights, obligations, remedies, liabilities, or standards of proof under chapters 89, 92F, 368, and 378.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved July 15, 1998.)

**Note**

- 1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to the Hawaii Maritime Authority.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that Hawaii’s maritime planning, management, and development functions are currently dispersed among the department of transportation’s harbors division, the department of land and natural resources’ boating and ocean recreation program, the Hawaii community development authority, and the Aloha Tower development corporation. This multijurisdictional situation has resulted in inefficiencies and conflicts over maritime and nonmaritime uses that are difficult to resolve among agencies.

The legislature further finds that the economic well-being of the State depends in part on the efficient use of all of these resources and that fuller utilization of these resources will enhance and complement efforts to revitalize Hawaii’s economy. The legislature believes that coordinated planning and development of maritime and waterfront activities can be carried out more effectively by a single entity having overall consolidated jurisdiction.

It is the intent of the legislature to eventually establish the Hawaii maritime authority, an independent public entity to set statewide policy on all matters relating to Hawaii’s maritime lands and facilities. Further, is the intent of the legislature that the functions, duties, and staff of the departments and agencies currently charged

with the responsibilities over state maritime lands and harbor facilities shall be eventually transferred to this authority. However, before the actual establishment of the Hawaii maritime authority, the initiation of authority operations, and the implementation of transfers of functions, duties, and staff, it is the intent of the legislature to create a temporary maritime authority commission. The purpose of this temporary commission is to thoroughly examine the complexities involved, plan the details of the creation of the authority, and make recommendations to the legislature based on its findings, including submitting proposed legislation, regarding:

- (1) The scope of the authority's jurisdiction;
- (2) The specific structure and governance of the authority, including a maritime board, single administrator, or other form of governance;
- (3) The authority's proposed powers, functions, and duties, including the power to issue bonds;
- (4) The method of financing the operation of the authority;
- (5) The authority's relationship with federal, state, and county departments and agencies;
- (6) The best way to facilitate the creation of the authority itself and the accompanying transfers of functions, duties, and staff; and
- (7) Any other matter which the commission finds necessary or relevant to facilitate the creation and operation of the Hawaii maritime authority.

Because of the complexities involved, the legislature intends to delay the actual statutory creation of the Hawaii maritime authority and to give the temporary maritime authority commission, created in section 2, until December 20, 1998, to propose the exact form and details of the establishment of the Hawaii maritime authority to the legislature for action in the regular session of 1999.

SECTION 2. (a) There is created a temporary maritime authority commission, to be placed within the department of transportation for administrative purposes only, to thoroughly examine the complexities involved, plan the details of the creation of the Hawaii maritime authority and make recommendations to the legislature based on its findings, including submitting proposed legislation regarding:

- (1) The scope of the authority's jurisdiction;
  - (2) The specific structure and governance of the authority, including a maritime board, single administrator, or other form of governance;
  - (3) The authority's proposed powers, functions, and duties, including the power to issue bonds;
  - (4) The method of financing the operation of the authority;
  - (5) The authority's relationship with federal, state, and county departments and agencies;
  - (6) The best way to facilitate the creation of the authority itself and the accompanying transfers of functions, duties, and staff; and
  - (7) Any other matter which the commission finds necessary or relevant to facilitate the creation and operation of the Hawaii maritime authority.
- (b) The fifteen-member commission shall be composed of the following:
- (1) The director of transportation or a designee;
  - (2) The director of business, economic development, and tourism or a designee;
  - (3) The director of finance or a designee;
  - (4) The chairperson of the board of land and natural resources or a designee;
  - (5) The chief executive officer of the Aloha Tower development corporation;

- (6) The chief executive officer of the Hawaii community development authority;
- (7) The chairperson of the office of Hawaiian affairs or a designee;
- (8) One member representing the general public, to be appointed by the governor, from each of the four counties on the bases of the person's knowledge, expertise, and experience in maritime, boating, ocean recreation, coastal zone management, business, planning, or related areas;
- (9) Two members representing the private maritime industry, to be appointed by the governor; and
- (10) Two members representing labor, to be appointed by the governor.

(c) The director of transportation, or designee, shall act as chairperson of the commission. All members shall have the right to vote. Eight members shall constitute a quorum, whose affirmative vote shall be necessary for all actions by the commission. In its deliberations, the commission shall use a collaborative decision-making process. Members shall serve without compensation, but may be reimbursed for the necessary expenses, including travel expenses, incurred in the performance of their duties.

(d) The department of transportation shall provide all necessary support services to facilitate the work of the commission.

(e) The commission shall convene its first meeting not later than ten days after the effective date of this Act.

(f) The commission shall submit its final report to the legislature no later than December 20, 1998. The report shall include the commission's recommendations as encompassed by, but not limited to, this section and shall also include all necessary proposed legislation to statutorily create the Hawaii maritime authority for the legislature's action in the regular session of 1999.

(g) The temporary maritime authority commission shall be dissolved upon adjournment sine die of the regular session of 1999.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 16, 1998.)

**ACT 184**

S.B. NO. 2588

A Bill for an Act Relating to Veterinary Medicine.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 471-8, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Examinations shall be given by the board twice each year except when there are no applications pending. They shall be composed of written questions, a part of which shall consist of those aspects of veterinary medicine common to the State[.] on toxic substances, parasite diseases, unique soil conditions, and quarantine standards. The same questions shall be given to each person being examined during a particular examination. The subject matter of the examinations shall embrace the subjects and demonstrations of practical ability normally covered in the curricula of American veterinary colleges. The form of the examination shall be determined by the board. Applicants shall certify on the application that they have read, understood, and agree to comply with the laws and rules that the board determines are required for licensure.



The requirements imposed by this section shall not be a bar to renewal, reissuance, or restoration of any license issued prior to May 13, 1949.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 17, 1998.)

## ACT 185

S.B. NO. 2602

A Bill for an Act Relating to Landscape Architects.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 464-8, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) No person shall be eligible for licensure as a professional landscape architect unless:

- (1) The person is the holder of an unexpired license issued to the person by any jurisdiction, domestic or foreign, in which the requirements for licensure at the time the person was first licensed are of a standard satisfactory to the board; provided that if the board is in doubt as to whether the standards are satisfactory, or as to whether the holder was required to fully comply with them, it shall require that the holder successfully pass the national landscape architect licensing examination and a written examination, prescribed by the board [and] designed to test the holder’s knowledge[, skill, and competency in the profession] of the State’s climatic conditions, native plants and native ecosystems, land use ordinance and special management area requirements, and cultural and historical conditions affecting landscape architecture;
- (2) The person is the holder of a masters degree in landscape architecture from an institution of higher education approved by the board; is a graduate of a school or college approved by the board as of satisfactory standing and has completed a landscape architectural curriculum of four years or more; has had two years of full-time lawful experience in landscape architecture work of a character satisfactory to the board, or part-time experience which the board finds to be the equivalent thereof; and has successfully passed the national landscape architect licensing examination and a written examination, prescribed by the board [and] designed to test the person’s knowledge[, skill, and competency in the profession] of the State’s climatic conditions, native plants and native ecosystems, land use ordinance and special management area requirements, and cultural and historical conditions affecting landscape architecture;
- (3) The person is a graduate of a school or college approved by the board as of satisfactory standing, and has completed a landscape architectural curriculum of four years or more; has had three years of full-time lawful experience in landscape architecture work of a character satisfactory to the board, or part-time experience which the board finds to be the equivalent thereof; and has successfully passed the national land-

scape architect licensing examination and a written examination, prescribed by the board [and] designed to test the person's knowledge[, skill, and competency in the profession] of the State's climatic conditions, native plants and native ecosystems, land use ordinance and special management area requirements, and cultural and historical conditions affecting landscape architecture;

- (4) The person is a graduate of a school or college approved by the board as of satisfactory standing, and has completed a pre-landscape architecture or arts and science curriculum of four years or more; has had five years of full-time lawful experience in landscape architecture work of a character satisfactory to the board, or part-time experience which the board finds to be the equivalent thereof; and has successfully passed the national landscape architect licensing examination and a [professional] written examination, prescribed by the board [and] designed to test the person's knowledge[, skill, and competency in the profession] of the State's climatic conditions, native plants and native ecosystems, land use ordinance and special management area requirements, and cultural and historical conditions affecting landscape architecture; or
- (5) The person has had twelve years of full-time lawful experience in landscape architecture work of a character satisfactory to the board, or part-time experience which the board finds to be the equivalent thereof; and has successfully passed the national landscape architect licensing examination and a written examination, prescribed by the board [and] designed to test the person's knowledge[, skill, and competency in the profession] of the State's climatic conditions, native plants and native ecosystems, land use ordinance and special management area requirements, and cultural and historical conditions affecting landscape architecture.
- (6) The applicant shall also certify on the application that the applicant has read, understood, and agrees to comply with the laws and rules that the board determines are required for licensure.

In addition to the foregoing requirements, the board, in its discretion, may also require additional proof that the applicant is competent to practice professionally, and whenever the board is not fully satisfied from the results of an examination that any applicant is competent to practice professionally, it may give the applicant a further examination or examinations.

No person shall be eligible for licensure as a professional engineer, architect, land surveyor, or landscape architect if the person does not possess a history of honesty, truthfulness, financial integrity, and fair dealing.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 17, 1998.)

## ACT 186

S.B. NO. 2610

A Bill for an Act Relating to Professional Land Surveyors.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 464-8, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) No person shall be eligible for licensure as a professional land surveyor unless:

- (1) (A) The person is the holder of an unexpired license issued to the person by any jurisdiction, domestic or foreign, in which the requirements for licensure at the time the person was first licensed are of a standard satisfactory to the board; provided that if the board is in doubt as to whether the standards are satisfactory, or as to whether the holder was required to fully comply with them, it shall require that the holder successfully pass [a written examination, prescribed by the board and designed to test the holder’s knowledge, skill, and competency in the profession of land surveying;] the national land surveyor licensing examinations and a written, multiple-choice examination on the subject of Hawaii land matters and Hawaii land description;
- [(2)] (B) The person is a graduate of a school or college approved by the board as of satisfactory standing, and has completed a geoscience, civil engineering, or general engineering curriculum of four years or more; has had three years of full-time lawful experience in land surveying of a character satisfactory to the board, or part-time experience which the board finds to be the equivalent thereof; and has successfully passed [a professional written examination, prescribed by the board and designed to test the person’s knowledge, skill, and competency in the profession of land surveying;] the national land surveyor licensing examinations and a written, multiple-choice examination on the subject of Hawaii land matters and Hawaii land description;
- [(3)] (C) The person is a graduate of a school or college approved by the board as of satisfactory standing, and has completed a civil engineering technology (survey option) curriculum of two years or more or arts and sciences curriculum of four years or more; has had seven years of full-time lawful experience in land surveying of a character satisfactory to the board, or part-time experience which the board finds to be the equivalent thereof; and has successfully passed [a professional written examination, prescribed by the board and designed to test the person’s knowledge, skill, and competency in the profession of land surveying;] the national land surveyor licensing examinations and a written, multiple-choice examination on the subject of Hawaii land matters and Hawaii land description; or
- [(4)] (D) The person has had eleven years of full-time lawful experience in land surveying of a character satisfactory to the board, or part-time experience which the board finds to be the equivalent thereof; and has successfully passed [a professional written examination, prescribed by the board and designed to test the person’s knowledge, skill, and competency in the profession of

- land surveying.] the national land surveyor licensing examinations and a written, multiple-choice examination on the subject of Hawaii land matters and Hawaii land description; and
- (2) Any applicant shall certify on the application that the applicant has read, understood, and agrees to comply with the laws and rules that the board determines are required for licensure.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 17, 1998.)

**ACT 187**

S.B. NO. 2644

A Bill for an Act Relating to Beauty Culture.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 439-1, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read as follows:

““Esthetician” means any person who, with hands or nonmedically prescribed mechanical or electrical apparatus or devices or by use of cosmetic preparations, antiseptics, tonics, lotions, or creams, engages for compensation in any one or any combination of the following practices:

- (1) Massaging, cleansing, stimulating, manipulating, exercising, beautifying, or doing similar work on the scalp, face, neck, hands, arms, bust, upper part of the body, legs, or feet;
- (2) Cleansing, exfoliating, wrapping, or doing similar work upon the entire body, without direct contact by the hands and utilizing gloves, loofah mitts, or brushes; or
- (3) Removing superfluous hair about the body of any person by means other than electrolysis.

“Nail technician” means any person who for compensation engages in the practice of:

- (1) Cutting, trimming, polishing, coloring, cleansing, or otherwise treating a person’s fingernails and toenails;
- (2) Applying artificial fingernails and toenails; and
- (3) Massaging and cleansing a person’s hands, arms, legs, and feet.”

2. By amending the definitions of “beauty operator”, “cosmetologist”, and “cosmetology” to read:

““Beauty operator” means one of the following licensure categories: cosmetologist; hairdresser; [cosmetician;] esthetician; or [manicurist.] nail technician.

“Cosmetologist” means a person who engages in the practices of a hairdresser [and a cosmetician], an esthetician, and a nail technician for compensation.

“Cosmetology”, also known as beauty culture, means the art and science of beauty care of the skin, hair, scalp, and nails, and includes any one or a combination of the licensure categories if they are performed on a person’s head, face, neck, shoulders, arms, hands, bust, upper part of the body, legs, or feet for cosmetic purposes.”

3. By repealing the definitions of “cosmetician” and “manicurist”.

[“Cosmetician” means any person who, with hands or mechanical or electrical apparatus of<sup>1</sup> appliances, or by use of cosmetic preparations, antiseptics, tonics, lotions, or creams, engages for compensation in any one or any combination of the following practices: massaging, cleansing, stimulating, manipulating, exercising, beautifying, or doing similar work upon, the scalp, the face, neck, arms, bust, or upper part of the body, or manicuring the nails, or removing of superfluous hair about the body of any person by means other than electrolysis; provided that mechanical or electrical apparatus or appliances do not include those apparatus or appliances considered to be medical prescription devices.

“Manicurist” means any person who for compensation engages in the practice of cutting, trimming, polishing, coloring, cleansing, or otherwise treating a person’s fingernails and toenails; applying artificial fingernails and toenails; and massaging and cleansing a person’s hands, arms, legs, and feet.”]

SECTION 2. Section 439-12, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

“(a) The executive secretary of the board shall determine the sufficiency of the preliminary qualifications of applicants for admission to examinations; provided that the licensure categories shall be limited to cosmetologist, hairdresser, [cosmetician, manicurist,] esthetician, nail technician, and instructor. The preliminary qualifications for admission to examination shall be as provided in this section.

(b) A cosmetologist applicant shall be [at] least sixteen years old and have an education equivalent to the completion of high school and either:

- (1) Three thousand six hundred hours of training as a beauty apprentice in a beauty shop under the supervision of a licensed cosmetologist or in a barber shop under the supervision of a licensed barber for the hairdresser training only; or
- (2) One thousand eight hundred hours of training in a licensed beauty school.”

2. By amending subsections (d) and (e) to read:

“(d) [A cosmetician] An esthetician applicant shall be at least sixteen years old and have an education equivalent to the completion of high school and either:

- (1) [One thousand one hundred] One thousand two hundred hours of training as a beauty apprentice in a beauty shop or barber shop under the supervision of a licensed cosmetologist or [cosmetician;] esthetician; or
- (2) [Five hundred fifty] Six hundred hours of training in a licensed beauty school.

(e) A [manicurist] nail technician applicant shall be at least sixteen years old and have an education equivalent to the completion of high school and either:

- (1) Seven hundred hours of training as a beauty apprentice in a beauty shop or barber shop under the supervision of a licensed cosmetologist, [cosmetician,] esthetician, or [manicurist;] nail technician; or
- (2) Three hundred fifty hours of training in a licensed beauty school.”

SECTION 3. Current cosmetician licensees shall automatically be issued the esthetician and nail technician licenses upon the effective date of this Act.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on January 1, 1999.

(Approved July 17, 1998.)

Note

1. Prior to amendment "or" appeared here.

ACT 188

S.B. NO. 2655

A Bill for an Act Relating to Bicycle and Moped Registration.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 249, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§249- Procedure when registration of a bicycle or moped transferred.** (a) Upon transfer of registered ownership in or to a bicycle or moped, the person whose interest is to be transferred and the transferee shall write their signatures with pen and ink upon the certificate of registration issued for the bicycle or moped, together with the address of the transferee in the appropriate space provided upon the certificate.

(b) Within thirty calendar days of the transfer of registered ownership of a bicycle or moped, the transferee shall forward the certificate of registration so endorsed to the director of finance who shall file the certificate. The director of finance may charge a fee of \$5 which shall be deposited into the county bikeway fund for each new certificate of registration issued. Whenever a transferee fails to comply with these provisions, the director of finance shall charge a fee of \$10, in addition to the fee provided in this section, for the issuance of a new certificate of registration.

(c) The director of finance, upon receipt of the certificate of registration properly endorsed and the required fee, shall register the bicycle or moped and shall issue to the owner thereof by reason of the transfer a new certificate of registration in the manner and form provided for in an original registration.

(d) Until the director of finance has issued the new certificate of registration as provided in subsection (c), delivery of such bicycle or moped shall be deemed not to have been made and registration thereto shall be deemed not to have passed, and the intended transfer shall be deemed to be incomplete and not to be valid or effective for any purpose.

(e) In the event of the transfer by operation of law in or to a bicycle or moped, as upon inheritance, devise, or bequest, order in bankruptcy, or insolvency, execution sale, repossession upon default in performance of the terms of a lease or executory sales contract, or otherwise than by the voluntary act of the person whose interest is to be transferred, the certificate of registration shall be signed upon the spaces provided by the personal representative of, or successor in interest of the person whose registered ownership or interest is so transferred in lieu of such person. Every personal representative, receiver, trustee, sheriff, or other representative hereinabove referred to shall file with the director of finance a notice of any transfer by sale, lease, or otherwise by the person, of any such bicycle or moped, together with evidence satisfactory to the director of finance of all facts entitling such representative to make the transfer.

(f) Any person who refuses or neglects to deliver a certificate of registration to a transferee entitled thereto under this section, shall be punished as provided in section 249-14.6.

(g) Every dealer or manufacturer, upon transferring a bicycle or moped, whether by sale, lease, or otherwise, shall immediately give notice of the transfer to the director of finance upon the official form provided by the director of finance. Every such notice shall contain the date of the transfer, the names and addresses of the transferor and transferee, and such description of the bicycle or moped as may be called for in the official form.

(h) Every person, other than a dealer, upon transferring a bicycle or moped, whether by sale, lease, or otherwise, shall within ten days give notice of the transfer to the director of finance upon the official form provided by the director of finance. Every notice shall contain the date of transfer, the names and addresses of the transferor and transferee, and such description of the bicycle or moped as may be called for in the official form. Any person who violates this subsection shall be fined not more than \$100.

(i) Whenever the registered owner of a bicycle or moped or any dealer or manufacturer has given notice to the director of finance of a transfer of the registered ownership to the bicycle or moped, as provided in subsection (g) or (h), and has delivered the certificate of registration bearing the transferor's signature to the transferee as required by subsection (a), the transferor shall be relieved from liability, civil or criminal, which the transferor might subsequently incur by reason of being the registered owner of the bicycle or moped.

(j) Any person who falsely or fraudulently gives notice to the director of finance of a transfer of registered ownership to a bicycle or moped shall be subject to the penalty provided in section 249-14.6."

SECTION 2. Section 249-14, Hawaii Revised Statutes, is amended to read as follows:

**"§249-14 Bicycle and moped fee.** (a) Bicycles having two tandem wheels that are twenty inches or more in diameter and all mopeds are required to be registered and shall be subject to a [biennial] permanent registration fee of [\$8,] \$15, to be paid by the owners thereof to the director of finance.

(b) An owner of a bicycle having two tandem wheels that are less than twenty inches in diameter is not required to register such bicycle, but may do so to facilitate the return of recovered stolen bicycles by payment of the [biennial] registration fee. [The biennial registration fee shall become due and payable on January 1 and shall be delinquent on March 1; provided that any bicycle or moped initially acquired after October 31, previously not registered, shall be exempt from the biennial registration fee until January 1 of the next calendar year; provided that the biennial registration fee for the next biennium shall be paid before January 1. The biennial registration of bicycles and mopeds shall expire on December 31 of the second year and may be renewed by the owners beginning November 1 of the second year.] The fee collected shall not be refunded or prorated. Upon receipt of the fee, the director of finance shall number and register each bicycle and moped for which the fee is paid, in the owner's name and furnish the owner with a metallic tag or decal for each bicycle or moped [with number and year marked thereon,] which [tag or decal] shall be attached to the bicycle or moped. On bicycles the decal shall be affixed to the upright post attached to the sprocket facing in the forward direction. On mopeds the decal shall be affixed to the lower portion of the rear fender facing rearward. Upon initial registration by an owner or transferee, the director of finance shall require proof of ownership and require the owner to furnish verification of the serial number and description contained in the proof of ownership and application for registration. The metallic tag<sup>1</sup> or decals shall be in [such] a form as the director of finance shall from time to time prescribe. It shall be the duty of the director of finance of each county to purchase a sufficient number of [such] these tags or decals.

## ACT 189

(c) All fees collected under this section shall be deposited into the bikeway fund and shall be expended in the county in which the fees are collected as provided in section 249-17.5.”

SECTION 3. Section 249-14.6, Hawaii Revised Statutes, is amended to read as follows:

“**§249-14.6<sup>2</sup> Violations; penalty.** Any seller who violates the provisions of section 249-14.5 or 249-\_\_\_\_ may be fined not exceeding \$500.”

SECTION 4. Section 249-16, Hawaii Revised Statutes, is amended to read as follows:

“**§249-16 Duplicate bicycle and moped tags[.] and certificates of registration.** In the event that a bicycle or moped tag or certificate of registration furnished under section 249-14 or 249-\_\_\_\_ is lost, stolen, or mutilated, or becomes illegible, the person to whom it was furnished may obtain a duplicate thereof by presenting to the county director of finance the number and registration of the bicycle or moped involved. There shall be a charge of \$2 for the duplicate tag[.] and \$5 for the duplicate certificate of registration.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>3</sup>

SECTION 6. This Act shall take effect on January 1, 1999.

(Approved July 17, 1998.)

### Notes

1. Prior to amendment “tags” appeared here.
2. So in original.
3. Edited pursuant to HRS §23G-16.5.

## ACT 189

S.B. NO. 2689

A Bill for an Act Relating to Employees Retirement System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-47, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be three classes of members in the system to be known as class A, class B, and class C, defined as follows:

- (1) Class A shall consist of members covered by section 88-74(3), those members whose salaries are set forth in sections 26-52 and 26-53, and their county counterparts, managing directors or administrative assistant to the mayor, and other department heads, including agency heads appointed by the mayor, first deputies appointed by the county attorney and prosecuting attorney, the county clerk and deputy county clerk of each county, the administrative director of the courts, the deputy administrative director of the courts, the executive director of the labor



and industrial relations appeals board, the executive director of the Hawaii labor relations board, investigators of the department of the attorney general, narcotics enforcement investigators, water safety officers not making the election under section 88-271, public safety investigations staff investigators, and those members in service prior to July 1, 1984, including those who are on approved leave of absence, who are covered by Title II of the Social Security Act on account of service creditable under this part. This class shall consist of:

- (A) All employees who enter membership after June 30, 1957, except employees in positions to which coverage under Title II of the Social Security Act is not extended;
- (B) All employees who were members on July 1, 1957, who elected to be covered by the Social Security Act; and
- (C) All former class A retirants who return to employment after June 30, 1984, requiring the retirant's active membership;
- (2) Class B shall consist of all members who are not class A or class C members; and
- (3) Except for members described in section 88-47(a)(1), class C shall consist of all employees in positions covered by Title II of the Social Security Act who:
  - (A) First enter service after June 30, 1984;
  - (B) Reenter service after June 30, 1984, without vested benefit status as provided in section 88-96(b);
  - (C) Make the election to become a class C member as provided in part VII; or
  - (D) Are former class C retirants who return to service requiring the retirant's active membership."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 17, 1998.)

## ACT 190

S.B. NO. 2717

A Bill for an Act Relating to Family Court.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 352-9, Hawaii Revised Statutes, is amended to read as follows:

**“§352-9 Period committed.** (a) All persons committed to the Hawaii youth correctional facilities shall be committed for the period of their minority or as otherwise ordered by the court. Such persons may be placed on furlough or parole if deemed appropriate. The power to discharge a person committed [person] to a youth correctional facility is reserved to the director; provided that the director shall give a thirty-day notice of such intended discharge to the appropriate court and to the prosecutor's office of the appropriate county. Prior court approval for furlough, parole, or discharge of all minors, committed by the family court to a youth correctional facility for the period of their minority or otherwise, shall be obtained

when such is specifically required in the commitment order. In any case, no person nineteen years or older shall be incarcerated in a youth correctional facility.

(b) In those cases where the term of commitment to a youth correctional facility extends beyond the person's nineteenth birthday, the person shall be placed on juvenile parole pursuant to the original family court order for the balance of the person's term of commitment; provided that such term does not extend beyond the person's twentieth birthday unless earlier terminated."

SECTION 2. Section 571-8.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) The district family judges may:
- (1) Administer oaths;
  - (2) Subpoena, summon, and compel the attendance of parties and witnesses from any part of the State, and compel the production of books, papers, documents including school, medical, and financial records, or tangible things;
  - (3) Make and issue all orders and writs necessary or appropriate in aid of their original jurisdiction;
  - (4) Perpetuate testimony under the rules and orders of the family court, and issue commissions for the perpetuation of testimony to be used on controversies pending before them;
  - (5) Grant continuances in proceedings before them;
  - (6) Enforce decrees and judgments[;] and punish contempts according to law;
  - (7) In a criminal case, alter, set aside, or suspend a sentence by way of mitigation or otherwise upon motion or plea of a defendant made within thirty days after imposition of a sentence;
  - (8) Appoint guardians ad litem for minors or persons who are incompetent or attorneys to represent parties in accordance with law;
  - (9) [To admit] Admit to bail persons rightfully confined in allailable cases, or [to] dispense with bail as provided by the State Constitution;
  - (10) [To make] Make and award [such] judgments, decrees, orders, and mandates, issue [such] executions and other processes, and do [such] other acts and take [such] other steps as may be necessary to carry into full effect the powers [which] that are or shall be given to them by law or for the promotion of justice in matters pending before them[.]; and
  - (11) Make and issue orders for pre-trial detention of persons aged eighteen years or older to an adult correctional facility, when the person is alleged to have committed an act or acts during the person's minority that would constitute a violation of section 571-11(1)."

SECTION 3. Section 571-13, Hawaii Revised Statutes, is amended to read as follows:

“**§571-13 Retention of jurisdiction.** Except as otherwise provided in this chapter, jurisdiction obtained by the court in the case of a minor may be retained by it, for the purposes of this chapter, after the minor becomes eighteen years of age until the full term for which any order entered shall have expired. Further, in the case of any person who is alleged to have committed an offense under section 571-11 prior to reaching eighteen years of age, the court shall have jurisdiction after the person becomes eighteen for the purpose of holding hearings and/or entering orders of disposition concerning the alleged offenses or for the purpose of making and issuing orders for pre-trial detention of persons aged eighteen years or older to an

adult correctional facility, when the person is alleged to have committed an act or acts during the person's minority that would constitute a violation of section 571-11(1). This section shall not be construed, however, to confer any jurisdiction upon the family court over a person for any criminal act committed after the person achieves eighteen years of age.”

SECTION 4. Section 571-14, Hawaii Revised Statutes, is amended to read as follows:

“**§571-14 Jurisdiction; adults.** The court shall have exclusive original jurisdiction:

- (1) To try any offense committed against a child by the child's parent or guardian or by any other person having the child's legal or physical custody, and any violation of section 707-726, 707-727, 709-902, 709-903, 709-903.5, 709-904, 709-905, 709-906, or 302A-1135, whether or not included in other provisions of this paragraph or paragraph (2).
- (2) To try any adult charged with:
  - (A) Deserting, abandoning, or failing to provide support for any person in violation of law;
  - (B) An offense, other than a felony, against the person of the defendant's husband or wife;
  - (C) Any violation of an order issued pursuant to chapter 586; or
  - (D) Any violation of an order issued by a family court judge.

In any case within paragraph (1) or (2), the court, in its discretion, may waive its jurisdiction over the offense charged.

- (3) In all proceedings under chapter 580, and in all proceedings under chapter 584.
- (4) In proceedings under chapter 575, the Uniform Desertion and Non-support Act, and under chapter 576B, the Uniform Interstate Family Support Act.
- (5) For commitment of an adult alleged to be mentally defective or mentally ill.
- (6) In all proceedings for support between parent and child or between husband and wife.
- (7) In all proceedings for pre-trial detention or waiver of jurisdiction over an adult who was a child at the time of an alleged criminal act as provided in section 571-13 or 571-22.
- (8) In all proceedings under chapter 586, Domestic Abuse Protective Orders.
- (9) In all proceedings to appoint a guardian of the person of an adult.
- (10) For the protection of dependent adults under chapter 346, part X.

In any case within paragraph (3), (4), or (6), the attorney general, through the child support enforcement agency, may exercise concurrent jurisdiction as provided in chapter 576E.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved July 17, 1998.)

A Bill for an Act Relating to Payments to Health Care Providers for Workers' Compensation Claims.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 386-21, Hawaii Revised Statutes, is amended to read as follows:

**“§386-21 Medical care, services, and supplies.** (a) Immediately after a work injury sustained by an employee and so long as reasonably needed the employer shall furnish to the employee all medical care, services, and supplies as the nature of the injury requires. The liability for the medical care, services, and supplies shall be subject to the deductible under section 386-100.

(b) Whenever medical care is needed, the injured employee may select any physician or surgeon who is practicing on the island where the injury was incurred to render such care. If the services of a specialist are indicated, the employee may select any such physician or surgeon practicing in the State. The director may authorize the selection of a specialist practicing outside the State where no comparable medical attendance within the State is available. Upon procuring the services of such physician or surgeon, the injured employee shall give proper notice of the employee's selection to the employer within a reasonable time after the beginning of the treatment. If for any reason during the period when medical care is needed, the employee wishes to change to another physician or surgeon, the employee may do so in accordance with rules prescribed by the director. If the employee is unable to select a physician or surgeon and the emergency nature of the injury requires immediate medical attendance, or if the employee does not desire to select a physician or surgeon and so advises the employer, the employer shall select the physician or surgeon. Such selection, however, shall not deprive the employee of the employee's right of subsequently selecting a physician or surgeon for continuance of needed medical care.

(c) The liability of the employer for medical care, services, and supplies shall be limited to the charges computed as set forth in this section. The director shall make determinations of the charges and adopt fee schedules based upon those determinations. Effective January 1, 1997, and for each succeeding calendar year thereafter, the charges shall not exceed one hundred ten per cent of fees prescribed in the Medicare Resource Based Relative Value Scale system applicable to Hawaii as prepared by the United States Department of Health and Human Services, except as provided in this subsection. The rates or fees provided for in this section shall be adequate to ensure at all times the standard of services and care intended by this chapter to injured employees.

If the director determines that an allowance under the Medicare program is not reasonable, or if a medical treatment, accommodation, product, or service existing as of June 29, 1995, is not covered under the Medicare program, the director may, at any time, establish an additional fee schedule or schedules not exceeding the prevalent charge for fees for services actually received by providers of health care services to cover charges for that treatment, accommodation, product, or service. If no prevalent charge for a fee for service has been established for a given service or procedure, the director shall adopt a reasonable rate that shall be the same for all providers of health care services to be paid for that service or procedure.

The director shall update the schedules required by this section every three years or annually, as required. The updates shall be based upon:

- (1) Future charges or additions prescribed in the Medicare Resource Based Relative Value Scale system applicable to Hawaii as prepared by the United States Department of Health and Human Services; or
- (2) A statistically valid survey by the director of prevalent charges for fees for services actually received by providers of health care services or based upon the information provided to the director by the appropriate state agency having access to prevalent charges for medical fee information.

When a dispute exists between an insurer or self-insured employer and a medical service provider regarding the amount of a fee for medical services, the director may resolve the dispute in a summary manner as the director may prescribe; provided that a provider shall not charge more than the provider's private patient charge for the service rendered.

(d) If it appears to the director that the injured employee has wilfully refused to accept the services of a competent physician or surgeon selected as provided in this section, or has wilfully obstructed the physician or surgeon, or medical, surgical, or hospital services or supplies, the director may consider such refusal or obstruction on the part of the injured employee to be a waiver in whole or in part of the right to medical care, services, and supplies, and may suspend the weekly benefit payments, if any, to which the employee is entitled so long as such refusal or obstruction continues.

(e) Such funds as are periodically necessary to the department to implement the foregoing provisions may be charged to and paid from the special compensation fund provided by section 386-151.

(f) In cases where the compensability of the claim is not contested by the employer, the medical services provider shall notify or bill the employer, insurer, or the special compensation fund for services rendered relating to the compensable injury within two years of the date services were rendered. Failure to bill the employer, insurer, or the special compensation fund within the two year period shall result in the forfeiture of the medical service provider's right to payment. The medical service provider shall not directly charge the injured employee for treatments relating to the compensable injury."

SECTION 2. If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 17, 1998.)

## ACT 192

S.B. NO. 2770

A Bill for an Act Relating to Measurement Standards.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 486-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Retail” means sale to the final consumer.”

SECTION 2. Section 486-36, Hawaii Revised Statutes, is amended to read as follows:

“[[§486-36]] Remedies. Notwithstanding other penalties[,] provided in this chapter, including but not limited to penalties provided under section 486-32, the board may enforce this chapter in both administrative and judicial proceedings:

- (1) Administrative. If the administrator determines that any person is violating any provision of this chapter or any rule adopted thereunder, or any variance or exemption or waiver issued pursuant thereto, the administrator may have that person served with a notice of violation and an order. The notice shall specify the alleged violation. The order may require that the alleged violator do any or all of the following:
  - [cease]
  - (A) Cease and desist from the violation[, pay];
  - (B) Pay an administrative penalty not to exceed \$2,000 for each day of violation[, correct];
  - (C) Correct the violation at the alleged violator’s own expense[.]; or [appear]
  - (D) Appear before the board at a time and place specified in the order and answer the charges complained of.

The order shall become final twenty calendar days after service unless within those twenty calendar days the alleged violator requests in writing a hearing before the board. Upon such request the board shall specify a time and place for the alleged violator to appear. After a hearing pursuant to this subsection, the board may affirm, modify, or rescind the order as appropriate.

Factors to be considered in imposing the administrative penalty may include the nature and history of the violation and any prior violation and the opportunity, difficulty, and history of corrective action. It is presumed that the violator’s economic and financial conditions allow payment of the penalty and the burden of proof to the contrary is on the violator[.]; and

- (2) Judicial. The board may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. In any judicial proceeding to enforce the administrative penalty imposed pursuant to this chapter, the board shall be required to show that:
  - (A) Notice was given;
  - (B) A hearing was held or the time granted for requesting a hearing had expired without such a request;
  - (C) The administrative penalty was imposed; and
  - (D) The penalty imposed remains unsatisfied.

The board may also institute a civil action in any court of competent jurisdiction for injunctive relief to enjoin violation of any order issued or rule adopted pursuant to this chapter, in addition to any other remedy or penalty provided for under this chapter.”

SECTION 3. Section 486-105, Hawaii Revised Statutes, is amended to read as follows:

“[[§486-105]] General testing. (a) Unless otherwise provided by law, the department, through the [division of] measurement standards[,] branch, shall inspect

and test, to ascertain if they are correct, all measurement standards and measuring devices kept, offered, or exposed for sale, sold or in use in the State. The department may, as often as it deems necessary, inspect and test, to ascertain if they are correct, all measurement standards and measuring devices used in [determining]:

- (1) Determining the measurement of commodities or things sold, or offered or exposed for sale, on the basis of measure; [in computing]
- (2) Computing the basic charge or payment, including taxes, for services rendered on the basis of measure; and [in determining]
- (3) Determining measurement when a charge is made for such determination, including the payment of any associated tax[;].

[provided] Provided that in compliance with a rule of the board, tests may be made on representative samples of [such] the commodities [of], things, or devices, and the lots of which samples are representative shall be held to be correct or incorrect upon the basis of the results of the inspections and tests on [such] the samples[; and]. And, provided[,] that with respect to single-service devices designed to be used only once and to be then discarded or with respect to devices uniformly mass-produced, as by means of a mold or die, and not susceptible of individual adjustment, the inspection and testing requirements of this section will be satisfied when inspections and tests are made on representative samples of [such] the devices, and the lots of which samples are representative shall be held to be correct or incorrect upon the basis of the results of the inspections and tests of [such] the samples.

(b) The department may adopt rules:

- (1) To authorize the licensing of service agencies to conduct routine tests of measurement standards and measuring devices;
- (2) To establish the process for licensing, including license fees and suspension or revocation of licenses;
- (3) To establish the frequency of testing for various measurement standards and measuring devices;
- (4) To establish record keeping and reporting requirements for licensed service agencies;
- (5) To establish procedures whereby licensed service agencies may seal or mark measurement standards or measuring devices as "correct" or "rejected" under section 486-108;
- (6) To establish procedures for evaluating the performance of licensed service agencies in testing measurement standards and measuring devices; and
- (7) To establish penalties for violations of this chapter or rules adopted under this subsection."

SECTION 4. Section 486-116, Hawaii Revised Statutes, is amended to read as follows:

**“§486-116 Misrepresentation of price.** Whenever any commodity or service is bought or sold, or is offered, exposed, or advertised for sale or purchase, by weight, measure, or count, the price shall not be misrepresented, nor presented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser or seller. The price of [packages or] consumer commodities [sold from bulk], when offered for sale at retail, shall be clearly displayed and shall reflect the retail price at which the public may, without special credentials or other requirements, purchase [such packages or] the commodities. The price displayed and the price actually charged the purchaser shall be identical unless a prior agreement has been reached between the buyer and the seller or the price charged is lower than the price displayed. Whenever an advertised, posted, or labeled price per unit of measure includes a fraction of a cent, all numerals expressing the fraction shall be promi-

nently displayed and the numeral or numerals expressing the fraction shall be immediately adjacent to and of the same general design and style as the whole numeral or numerals of the price per unit as established by rule of the board.”

SECTION 5. Sections 486-103, 486-106, 486-108, 486-109, 486-117, and 486H-3, Hawaii Revised Statutes, are amended by substituting the term “measurement standards branch” wherever the term “division of measurement standards” appears, as the context requires.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved July 17, 1998.)

ACT 193

S.B. NO. 2775

A Bill for an Act Relating to the King Kamehameha Celebration Commission.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 8-5, Hawaii Revised Statutes, is amended to read as follows:

“**§8-5 King Kamehameha celebration commission.** (a) There shall be a commission to be known as the King Kamehameha celebration commission placed within the department of accounting and general services for administrative purposes. The commission shall consist of [eighteen] thirteen members to be appointed by the governor in the manner provided by section 26-34. The appointments shall be made from the following organizations, with at least one member from each organization:

- (1) Royal Order of Kamehameha I;
- (2) [Ahahui Kaahumanu;] ‘Ahahui Ka‘ahumanu;
- (3) Hale [o Na Alii o Hawaii Ahahui poo;] O Nā Ali‘i O Hawai‘i ‘Ahahui Po‘o;
- (4) Daughters and Sons of Hawaiian Warriors;
- [(5) Daughters of Hawaii;
- (6)] (5) Kamehameha Schools Alumni Association;
- [(7)] (6) Association of Hawaiian Civic Clubs;
- [(8)] (7) Waimanalo Homesteaders<sup>1</sup> Association;
- [(9)] (8) Kapahulu Music Club; and
- [(10) Hui Holo Pa-u Me Na Hoa Hololio;
- (11)] (9) [Papakolea] Papakōlea Community Association.<sup>2</sup>
- [(12) Hui Kukakuka.]

In addition, the governor shall appoint one member from each of the following islands: [Kauai,] Kaua‘i, Maui, [Molokai, Oahu,] Moloka‘i, and [Hawaii.] Hawai‘i. Each of these members shall be a resident of the respective island that the member represents. [Also, there shall be one at-large member.]

(b) The terms of all appointments shall be four years. The governor shall appoint the chairperson of the commission from among the members.

(c) The members of the King Kamehameha celebration commission shall serve without compensation, but shall be entitled to reimbursement for travel and



necessary expenses while attending meetings and while in discharge of their duties. The comptroller shall reimburse the members of the King Kamehameha celebration commission for all necessary expenses incurred during the discharge of their duties.

(d) The commission may appoint and dismiss an arts program specialist and a part-time clerk typist, without regard to chapters 76 [or] and 77, who shall serve at the commission's pleasure, and whose salaries shall be provided through fees, public contributions, and private donations.

(e) The commission shall have charge of all arrangements for the celebration each year generally observed throughout [Hawaii] Hawai'i Nei on June 11, to commemorate the memory of the great Polynesian Hawaiian warrior and statesman King Kamehameha I, who united the Hawaiian Islands into the Kingdom of [Hawaii.] Hawai'i, and is recognized as such under section 8-1. The commission may appoint committees and delegate powers and duties to the committees as it shall determine.

(f) The comptroller shall account for all moneys appropriated by the legislature, may raise funds to defray administrative costs, and may accept donations of money and personal property on behalf of the commission; provided that all donations accepted from private sources shall be expended in the manner prescribed by the contributor, and all moneys received from all sources shall be deposited into the commission's trust account.

(g) The commission shall be the coordinating agency for all state sponsored as well as other celebration events staged during the celebration period as designated by the commission to assure activities planned are timely and appropriate to commemorate the memory of King Kamehameha I. The commission is authorized to determine to whom and for which occasions permission is to be granted for the use of the statue of King Kamehameha I.

(h) The commission shall adopt rules pursuant to chapter 91 necessary for the purpose of this section."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval; provided that the current O'ahu member and at-large member shall be allowed to complete their respective terms.

(Approved July 17, 1998.)

#### Notes

1. Prior to amendment "Homesteaders" appeared here.
2. Prior to amendment "; and" appeared here.

## ACT 194

S.B. NO. 2786

A Bill for an Act Relating to Sex Offender Registration.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 846E-1, Hawaii Revised Statutes, is amended by amending the definition of "criminal offense against a victim who is a minor" to read as follows:

""Criminal offense against a victim who is a minor" means any criminal offense that consists of:

- (1) Kidnapping of a minor, except by a parent;
- (2) Unlawful imprisonment in the first degree of a minor, except by a parent;
- (3) Criminal sexual conduct toward a minor;
- (4) Solicitation of a minor who is less than fourteen years old to engage in sexual conduct;
- (5) Use of a minor in a sexual performance;
- (6) Solicitation of a minor to practice prostitution;
- (7) Any conduct that by its nature is a sexual offense against a minor, but excludes conduct that is criminal only because of the age of the victim, as provided in section 707-730(1)(b) or section 707-732(1)(b), if the perpetrator is eighteen years of age or younger; [or]
- (8) An act, as described in chapter 705, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the offenses designated in paragraphs (1) through (7); or
- [(8)] (9) Any state, federal, or military law similar to paragraphs (1) through [(7).] (8).”

SECTION 2. Section 846E-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Registration information for each sex offender shall consist of a recent photograph [that shall be provided by the sex offender], verified fingerprints, [a sample of saliva, and two samples of blood for the purpose of secretor status, blood type, and DNA analysis, if not obtained from the person previously,] and a signed statement by the sex offender containing:

- (1) Name and all aliases used by the sex offender or under which the sex offender has been known and other identifying information, including date of birth, social security number, sex, race, height, weight, and hair and eye color;
- (2) The legal address and telephone number of the sex offender’s [legal] residence or mailing address, [and that of] or any current, temporary address where the sex offender resides, and for each address how long the sex offender has resided there;
- (3) The legal address and telephone number where the sex offender is staying for a period of more than ten days, if other than the stated residence;
- (4) The future address and telephone number where the sex offender is planning to reside, if other than the stated residence;
- (5) Names and legal addresses of current and known future employers and [date and current locations of] the starting and ending dates of any such employment;
- (6) [Vehicle registration information] The year, make, model, color, and license number of all vehicles currently owned or operated by the sex offender; [and]
- (7) A summary of the criminal offenses against victims who were minors and sexually violent offenses for which the sex offender has been convicted or found unfit to proceed or acquitted pursuant to chapter 704[.];
- (8) A statement indicating whether the sex offender has received or is currently receiving treatment for mental abnormality or personality disorder;
- (9) A statement indicating whether the sex offender is a United States citizen; and

(10) Any additional identifying information about the sex offender.”

SECTION 3. Section 846E-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) For purposes of this section, “relevant information that is necessary to protect the public” means:

- (1) Name and all aliases used by the sex offender or under which the sex offender has been known;
- (2) The street name and zip code where the sex offender resides and how long the sex offender has resided there;
- (3) The street name and zip code where the sex offender is staying for more than ten days, if other than the stated residence;
- (4) The future [address and telephone number,] street name and zip code, if known, where the sex offender is planning to reside, if other than the stated residence;
- (5) The street name and zip code of the sex offender’s current locations of employment;
- (6) [Vehicle registration information] The year, make, model, color, and license number of all vehicles currently owned or operated by the sex offender;
- (7) A brief summary of the criminal offenses against victims who were minors and the sexually violent offenses for which the sex offender has been convicted or found unfit to proceed or acquitted pursuant to chapter 704; and
- (8) A recent photograph of the sex offender.”

SECTION 4. Section 846E-4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each person, or that person’s designee, in charge of a jail, prison, hospital, school, or other institution to which a sex offender has been committed pursuant to a conviction, or an acquittal or finding of unfitness to proceed pursuant to chapter 704, for a sexually violent offense or a criminal offense against a victim who is a minor, and each judge, or that judge’s designee, who continues bail for or releases a sex offender following a guilty verdict or a plea of guilty or nolo contendere, who releases a sex offender on probation or who discharges a sex offender upon payment of a fine, [prior to the discharge, parole, or release of the sex offender,] and each agency having jurisdiction, shall[:], prior to the discharge, parole, or release of the sex offender:

- (1) Explain to the sex offender the duty to register and the consequences of failing to register under this chapter;
- (2) Obtain from the sex offender all of the registration information required by this chapter;
- (3) Inform the sex offender that if the sex offender changes name, employment, vehicle, or residence address, the sex offender shall notify the attorney general of the new [address] registration information in writing within three working days;
- (4) Inform the sex offender that, if the sex offender changes residence to another state, the sex offender shall register the new address with the attorney general and also with a designated law enforcement agency in the new state, if the new state has a registration requirement, not later than ten days after establishing residence in the new state;

- (5) Obtain and verify fingerprints[, samples of saliva and blood,] and a photograph of the sex offender, if these have not already been obtained or verified in connection with the offense that triggers the registration[. Blood shall be withdrawn pursuant to this paragraph only by a person authorized to withdraw blood under section 286-152. The agency having jurisdiction shall arrange for the sample to be collected and analyzed. The results shall be recorded, preserved, and disseminated in a manner established by the Hawaii criminal justice data center and consistent with the requirements of chapter 846. For<sup>1</sup> purposes of this paragraph, the person may be remanded to any available clinic or hospital, intake service center, community correctional center, state or county health department facility, or police department crime laboratory];<sup>2</sup>
- (6) Require the sex offender to sign a statement indicating that the duty to register has been explained to the sex offender; and
- (7) Give one copy of the signed statement and one copy of the registration information to the sex offender[.];
- [ (8) The agency having jurisdiction over the sex offender shall also note any additional physical identifying factors of the sex offender. ]”

SECTION 5. Section 846E-4, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) [The agency having jurisdiction over the sex offender shall obtain documentation of any treatment the sex offender received for mental abnormality or personality disorder and shall include the documentation, if any, and any additional identifying factors of the sex offender with the registration information.] Notwithstanding any law to the contrary, [the agency having jurisdiction shall transmit] a copy of the signed statement and one copy of the registration information shall be transmitted to the attorney general within three working days.”

SECTION 6. Section 846E-4, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Each sex offender, within three working days after release from incarceration, release from commitment, release on furlough, placement on parole, or placement on probation, or within three working days after arrival in a county in which the sex offender resides or expects to be present for a period exceeding [thirty] ten days, shall register in person with the county chief of police having jurisdiction of the area in which the sex offender resides or is present. The chief of police shall transmit any sex offender registration information required by this chapter to the attorney general, by entering the information into a statewide record system, if the information has not previously been entered into the system, and also shall provide the attorney general with a photograph and fingerprints of the sex offender, taken at the time the sex offender registers with the chief of police. The sex offender shall report in person every five years to the county chief of police of the county where the sex offender’s residence is located for purposes of having a new photograph taken.”

SECTION 7. Section 846E-6, Hawaii Revised Statutes, is amended by amending the title to read:

**“[[]§846E-6[[]] Requirement to register a change of [address;] registration information; verification by the attorney general.”**

SECTION 8. Section 846E-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A sex offender required to register under this chapter, who changes name, employment, vehicle, or residence address after an initial registration with the attorney general, shall notify the attorney general of the new [residence address] registration information in writing within three working days of [changing residence.] the change. For purposes of this section, a person shall be deemed to have established a new residence during any period in which the person resides at a different address for not less than ten days. If the new residence is in another state that has a registration requirement, the person shall register [the new address] with a designated law enforcement agency in the state to which the person moves, not later than ten days after the person establishes residence in that state.”

SECTION 9. Section 846E-7, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§846E-7]]~~ **Notification by the attorney general of changes in [address.] registration information.** Immediately, and in no event, not later than ten days after receiving notice of a change of [address,] registration information, the attorney general shall report the change of [address] registration information by a sex offender required to register under this chapter to the county police department where the sex offender is residing and, in the event the sex offender changes address to another county or state, shall report such change of address to the Federal Bureau of Investigation. If the person changes residence to another state, the attorney general also shall notify the law enforcement agency with which the person must register in the new state, if the new state has a registration requirement.”

SECTION 10. Section 353-13.2, Hawaii Revised Statutes, is repealed.

SECTION 11. Statutory material to be repealed is bracketed.<sup>3</sup> New statutory material is underscored.

SECTION 12. This Act shall take effect upon its approval.

(Approved July 17, 1998.)

#### Notes

1. Prior to amendment “the” appeared here.
2. Semicolon should not be underscored.
3. Edited pursuant to HRS §23G-16.5.

## ACT 195

S.B. NO. 2805

A Bill for an Act Relating to Appeals from the Public Utilities Commission.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 269, Hawaii Revised Statutes, is amended by adding to part I a new section to be appropriately designated and to read as follows:

“**§269- Appeals.** An appeal from an order of the public utilities commission under this chapter shall lie to the supreme court, subject to chapter 602, in the manner and within the time provided by chapter 602 and the rules of court. Only a

person aggrieved in a contested case proceeding provided for in this chapter may appeal from the order, if the order is final, or if preliminary, is of the nature defined by section 91-14(a). The commission may elect to be a party to all matters from which an order of the commission is appealed, and the commission may file appropriate responsive briefs or pleadings in the appeal; except that where there was no adverse party in the case below or in cases where there is no adverse party to the appeal, the commission shall be a party to all matters in which an order of the commission is appealed and shall file the appropriate responsive briefs or pleadings in defending all such orders. The appearance of the commission as a party in appellate proceedings in no way limits the participation of persons otherwise qualified to be parties on appeal. The appeal shall not of itself stay the operation of the order appealed from, but the supreme court may stay the order after a hearing upon a motion therefor and may impose conditions it deems proper, including but not limited to requiring a bond, requiring that accounts be kept, or that other measures be taken as ordered to secure restitution of the excess charges, if any, made during the pendency of the appeal, in case the order appealed from is sustained, reversed, or modified in whole or in part."

SECTION 2. Section 269-16, Hawaii Revised Statutes, is amended to read as follows:

**"§269-16 Regulation of utility rates; ratemaking procedures.** (a) All rates, fares, charges, classifications, schedules, rules, and practices made, charged, or observed by any public utility, or by two or more public utilities jointly, shall be just and reasonable and shall be filed with the public utilities commission. The rates, fares, classifications, charges, and rules of every public utility shall be published by the public utility in such manner as the public utilities commission may require, and copies furnished to any person on request.

To the extent the contested case proceedings referred to in chapter 91 are required in any rate proceeding in order to ensure fairness and to provide due process to parties which may be affected by rates approved by the commission, such evidentiary hearings shall be conducted expeditiously and shall be conducted as a part of the ratemaking proceeding.

(b) No rate, fare, charge, classification, schedule, rule, or practice, other than one established pursuant to an automatic rate adjustment clause previously approved by the commission, shall be established, abandoned, modified, or departed from by any public utility, except after thirty days' notice as prescribed in section 269-12(b) to the commission and prior approval by the commission for any increases in rates, fares, or charges. The commission may, in its discretion and for good cause shown, allow any rate, fare, charge, classification, schedule, rule, or practice to be established, abandoned, modified, or departed from upon notice less than that provided for in section 269-12(b). A contested case hearing shall be held in connection with any increase in rates and such hearing shall be preceded by a public hearing as prescribed in section 269-12(c) at which the consumers or patrons of the public utility may present testimony to the commission concerning the increase. The commission, upon notice to the public utility, may suspend the operation of all or any part of the proposed rate, fare, charge, classification, schedule, rule, or practice or any proposed abandonment or modification thereof or departure therefrom and after a hearing by order regulate, fix, and change all such rates, fares, charges, classifications, schedules, rules, and practices, so that the same shall be just and reasonable<sup>1</sup> and prohibit rebates and unreasonable discrimination between localities, or between users or consumers, under substantially similar conditions, regulate the manner in which the property of every public utility is operated with reference to the safety and accommodation of the public, prescribe its form and method of keeping

accounts, books, and records, and its accounting system, regulate the return upon its public utility property, the incurring of indebtedness relating to its public utility business, and its financial transactions<sup>1</sup> and do all things in addition which are necessary and in the exercise of such power and jurisdiction, all of which as so ordered, regulated, fixed, and changed shall be just and reasonable, and such as shall provide a fair return on the property of the utility actually used or useful for public utility purposes.

(c) The commission may in its discretion and after public hearing, upon showing by a public utility of probable entitlement and financial need, authorize temporary increases in rates, fares, and charges; provided that the commission shall by order require the public utility to return in the form of an adjustment to rates, fares, or charges to be billed in the future any amounts, with interest at a rate equal to the rate of return on such public utility's rate base found to be reasonable by the commission, received by reason of such continued operation which are in excess of the rates, fares, or charges finally determined to be just and reasonable by the commission. Interest on any such excess shall commence as of the date that any rate, fare, or charge goes into effect which results in any such excess and shall continue to accrue on the balance of any such excess until returned.

(d) The commission shall make every effort to complete its deliberations and issue its decision as expeditiously as possible and before nine months from the date the public utility filed its completed application; provided that in carrying out this mandate the commission shall require all parties to a proceeding to comply strictly with procedural time schedules which it establishes. If a decision is rendered after the nine-month period, the commission shall in writing report the reasons therefor to the Legislature within thirty days after rendering the decision.

Notwithstanding subsection (c), if the commission has not issued its final decision on a public utility's rate application within the nine-month period stated in this section, the commission shall within one month after the expiration of the nine-month period render an interim decision allowing the increase in rates, fares and charges, if any, to which the commission, based on the evidentiary record before it, believes the public utility is probably entitled. The commission may postpone its interim rate decision thirty days if the commission considers the evidentiary hearings incomplete. In the event interim rates are made effective, the commission shall by order require the public utility to return in the form of an adjustment to rates, fares, or charges to be billed in the future any amounts, with interest at a rate equal to the rate of return on such public utility's rate base found to be reasonable by the commission, received under such interim rates which are in excess of the rates, fares or charges finally determined to be just and reasonable by the commission. Interest on any such excess shall commence as of the date that any rate, fare, or charge goes into effect which results in any such excess and shall continue to accrue on the balance of any such excess until returned.

The nine-month period in this subsection shall begin only after a completed application has been filed with the commission and a copy served on the consumer advocate. The commission shall establish standards concerning the data required to be set forth in the application in order for it to be deemed a completed application. The consumer advocate may within twenty-one days after receipt object to the sufficiency of any application and the commission shall hear and determine any such objection within twenty-one days after the same is filed. If the commission finds that the objections are without merit, the application shall be deemed to have been completed upon original filing. If the commission finds the application to be incomplete, it shall require the applicant to submit an amended application consistent with its findings and the nine-month period shall not commence until the amended application is filed.

(e) In any case of two or more organizations, trades, or businesses (whether or not incorporated, whether or not organized in the State of Hawaii, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the commission may distribute, apportion, or allocate gross income, deductions, credits or allowances between or among the organizations, trades, or businesses, if it determines that the distribution, apportionment, or allocation is necessary in order to adequately reflect the income of any such organizations, trades, or businesses to carry out the regulatory duties imposed by this section.

(f) From every order made by the commission under this chapter that is final or, if preliminary, is of the nature defined by section 91-14(a), an appeal shall lie to the supreme court subject to chapter 602 only by a person aggrieved in the contested case hearing provided for under this section in the manner and within the time provided by chapter 602, and by the rules of court. The commission may elect to be a party to all matters from which an order of the commission is appealed, and the commission may file appropriate responsive briefs or pleadings in the appeal; provided that where there was no adverse party in the case below or in cases where there is no adverse party to the appeal, the commission shall be a party to all matters in which an order of the commission is appealed and shall file the appropriate responsive briefs or pleadings in defending all such orders. The appearance of the commission as a party in appellate proceedings in no way limits the participation of persons otherwise qualified to be parties on appeal. The appeal shall not of itself stay the operation of the order appealed from, but the court may stay the order after a hearing upon a motion therefor and may impose conditions it deems proper as to giving a bond and keeping the necessary accounts or otherwise in order to secure a restitution of the excess charges, if any, made during the pendency of the appeal in case the order appealed from should be sustained, reversed, or modified in whole or in part.

(g) (f) For public utilities having annual gross revenues of less than \$2,000,000, the commission may make and amend its rules and procedures which will provide the commission with sufficient facts necessary to determine the reasonableness of the proposed rates without unduly burdening the utility company and its customers.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved July 17, 1998.)

Notes

- 1. Prior to amendment “,” appeared here.
- 2. Edited pursuant to HRS §23G-16.5.

ACT 196

S.B. NO. 2820

A Bill for an Act Relating to the Code of Financial Institutions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 412, Hawaii Revised Statutes, is amended by adding to part VI of article 2 a new section to be appropriately designated and to read as follows:



**“§412:2- Imposition of administrative fines on persons who are not Hawaii financial institutions; assessment.** (a) Any person, other than a Hawaii financial institution or an institution-affiliated party, who:

- (1) Commits a violation of any law or rule for which a penalty or fine is not expressly provided in this chapter;
- (2) Commits a violation of any order issued by the commissioner;
- (3) Commits a violation of any condition imposed in writing by the commissioner in connection with the grant of any application or other request by the person; or
- (4) Commits a violation of any written agreement between the commissioner and the person;

may be ordered by the commissioner to pay an administrative fine of not more than \$100,000 for each day during which the violation continues.

(b) Any administrative fine imposed under subsection (a) may be assessed and collected by the commissioner by service of written notice and order upon that person at the person’s last known home or office address by means of certified mail, return receipt requested. If, with respect to any such assessment, a hearing is not requested pursuant to section 412:2-610(c) within the period of time allowed under section 412:2-610(c), the assessment shall constitute a final and unappealable order.”

SECTION 2. Section 412:2-300, Hawaii Revised Statutes, is amended to read as follows:

**“§412:2-300 Enforcement actions.** In enforcing the provisions of this chapter [to ensure the safety and soundness of Hawaii financial institutions], the commissioner is authorized to use the powers [granted to the commissioner] in this part without limitation to direct the discontinuance of any violation of law, or any unsafe or unsound practice that is likely to cause insolvency or substantial dissipation of assets or earnings of the institution. The provisions of this chapter may be enforced by informal or formal actions. Informal actions include board resolutions, letter agreements, records of action, memoranda of understanding, or supervisory agreements. Formal actions include cease and desist orders (whether temporary or permanent), removal orders, suspension and revocation orders, divestiture orders, and orders enforcing statutory provisions. [In enforcing the provisions of this chapter, a Hawaii financial institution or any institution-affiliated party] Any person who is the subject of formal or informal enforcement action by the commissioner may consent to the entry of any formal order.”

SECTION 3. Section 412:2-302, Hawaii Revised Statutes, is amended to read as follows:

**“§412:2-302 Cease and desist orders; grounds for issuance.** (a) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any:

- (1) Provision of this chapter;
- (2) Rule adopted or order issued under this chapter; or
- (3) Condition of an approval of request or application by the commissioner or a written agreement between such person and the commissioner,

the commissioner may, in the commissioner’s discretion, issue a temporary or permanent cease and desist order to enforce compliance with this chapter, with any rule adopted or order issued under this chapter, or with the conditions of such approval or written agreement.

The commissioner shall have the discretion to include in the order an assessment of an administrative penalty against any person who violates this chapter or who has knowingly violated a written agreement with, or a rule or order of, the commissioner made pursuant to this chapter.

(b) The commissioner may issue a temporary or permanent cease and desist order to any Hawaii financial institution [or], any institution-affiliated party, or any other person that the commissioner finds or has reasonable cause to believe:

- (1) Is violating, has violated, or is about to violate this chapter or any rules [issued] adopted pursuant to this chapter;
- (2) Is violating, has violated, or is about to violate any written condition imposed or order issued by the commissioner on such financial institution's or other person's authority to engage in business, or any condition of a written agreement between the financial institution or other person and the commissioner;
- (3) Is engaging, has engaged, or is about to engage in an illegal, unauthorized, unsafe, or unsound practice; or
- (4) Is failing to maintain books and records that are sufficiently complete and accurate so as to permit the commissioner to determine the financial condition of the institution named in the order."

SECTION 4. Section 412:2-303, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The notice of charges and proposed permanent cease and desist order shall be in writing and shall be served upon the institution-affiliated party or the Hawaii financial institution at its principal office in this State[.] and upon any other affected party wherever that person can be located and served by the commissioner. The notice of charges shall state the alleged violations or wrongful practices and a summary of the facts in support of such allegations. The notice shall be accompanied by a proposed order which states the commissioner’s intent to require discontinuance of such violation or practice and the immediate compliance with all requirements of any applicable agreement, conditions of approval, order, or law. The proposed order may also direct such affirmative action as may be necessary to prevent insolvency or to correct the alleged violation or wrongful practice. The notice of charges shall set forth a time and place for a hearing to determine whether the proposed order shall be issued.”

SECTION 5. Section 412:2-304, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) [In order to] To act with the utmost speed, the commissioner may issue a temporary cease and desist order upon a determination that [(1)] one or more of the grounds specified in section 412:2-302 are present; [and (2)] provided that, in the case of a Hawaii financial institution or an institution-affiliated party, the commissioner shall not issue a temporary cease and desist order unless the commissioner has also made a determination that the violation [or],<sup>2</sup> threatened violation,<sup>1</sup> or unsafe or unsound practice is likely to [cause]:

- (1) Cause insolvency or substantial dissipation of assets; or [is likely to seriously]
- (2) Seriously weaken the condition of the institution; or [otherwise]
- (3) Otherwise seriously prejudice the interests of the depositors during the period in which a permanent cease and desist order can be obtained.

The order shall be accompanied by a notice of charges [which states] stating the alleged violation or wrongful practice,<sup>1</sup> [and] a summary of the facts in support

of [such] the allegation [and], and a time and place for a hearing to determine whether the temporary order shall be made permanent. The order may require discontinuance of a violation or practice[, and]; require the immediate compliance with all requirements of any applicable agreement, conditions of approval, order, or law[. The order may also direct such]; and direct affirmative action as may be necessary to prevent insolvency or to correct the alleged violation or wrongful practice. [The notice of charges shall set forth a time and place for a hearing to determine whether the temporary order shall be made permanent.]

(b) The order shall be effective upon service on the [Hawaii financial institution or institution-affiliated] affected party. The order shall remain in effect until a permanent cease and desist order is issued after a hearing, a permanent cease and desist order is consented to, or the charges are dismissed upon completion of a hearing. Any affected party contesting the issuance of the temporary cease and desist order may do so by applying to the circuit court for an injunction.”

SECTION 6. Section 412:2-305, Hawaii Revised Statutes, is amended to read as follows:

“**§412:2-305 Consent cease and desist orders.** Any [Hawaii financial institution or institution-affiliated] affected party may waive its rights to a hearing on any notice of charges by stipulating and consenting to [the]:

- (1) The issuance of a permanent cease and desist order [or by stipulating and consenting to the]; or
- (2) The conversion of a temporary cease and desist order into a permanent cease and desist order.

Any cease and desist order issued by consent shall be effective as of the date specified therein and shall remain effective until modified or terminated by the commissioner.”

SECTION 7. Section 412:2-601, Hawaii Revised Statutes, is amended to read as follows:

“**§412:2-601 Violation of chapter.** Any institution-affiliated party or any other person who wilfully violates any of the provisions of this chapter for which a penalty or administrative fine is not expressly provided [herein] in this chapter shall be guilty of a misdemeanor punishable pursuant to sections 706-663 and 706-640.”

SECTION 8. Section 412:2-609, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Any administrative fine imposed under [subsections] subsection (a), (b), or (c) may be assessed and collected by the commissioner by service of written notice and order upon the Hawaii financial institution or institution-affiliated party[.] by means of certified mail, return receipt requested. If, with respect to any such assessment, a hearing is not requested pursuant to section 412:2-610(c) within the period of time allowed under section 412:2-610(c), the assessment shall constitute a final and unappealable order.”

SECTION 9. Section 412:2-610, Hawaii Revised Statutes, is amended to read as follows:

“**§412:2-610 Compromise or modification of administrative fines; determining amount of fine; hearing.** (a) The commissioner may compromise, modify, or suspend any administrative fine which may be assessed or which has

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been assessed [pursuant to section 412:2-609.] under this chapter. The commissioner may also exempt violations of informal enforcement actions from the administrative fines and penalties set forth in [section 412:2-609.] this chapter.

(b) In determining the amount of any administrative fine imposed under [section 412:2-609.] this chapter, the commissioner shall take into account the appropriateness of the fine with respect to all of the following:

- (1) The size of financial resources and good faith of the financial institution or the person charged;
  - (2) The gravity of the violation, practice, or breach;
  - (3) The history of previous violations, unsafe or unsound practices, or breaches of fiduciary duty owed to the financial institution;
  - (4) The extent to which a federal agency has, by imposing a fine for similar conduct, mitigated the need for imposition of a particular level of administrative fine under [section 412:2-609;] this chapter; and
  - (5) Such other matters as justice may require.
- (c) The Hawaii financial institution or other person against whom any administrative fine is assessed under this [section] chapter shall be afforded a hearing in accordance with chapter 91 if the financial institution or person submits a written request for a hearing within twenty days after the service of the notice of assessment.”

SECTION 10. Section 412:2-611, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) If any Hawaii financial institution [or], institution-affiliated party, or other person fails to pay an assessment after any administrative fine assessed under this chapter has become final, the commissioner shall recover the amount assessed by action in circuit court, in which case the commissioner may request the court to award reasonable attorney’s fees and costs.”

SECTION 11. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 12. This Act shall take effect upon its approval.

(Approved July 17, 1998.)

### Notes

1. Comma should be underscored.
2. Edited pursuant to HRS §23G-16.5.

## ACT 197

S.B. NO. 2822

A Bill for an Act Relating to Lemon Law Disclosure Compliance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 481I-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Settlement” means an agreement for repurchase or replacement of a motor vehicle entered into between a manufacturer and a consumer that occurs after a dispute is submitted to an informal dispute resolution procedure or arbitration program or after a dispute is approved for arbitration under section 481I-4. “Settle-

ment” does not include an agreement for a motor vehicle to be repurchased pursuant to a guaranteed repurchase or satisfaction program advertised by the manufacturer in which the vehicle was not alleged or found to have a nonconformity as defined in this section.”

SECTION 2. Section 481I-2, Hawaii Revised Statutes, is amended by amending the definition of “replacement motor vehicle” to read as follows:

““Replacement motor vehicle” means a motor vehicle which is identical or reasonably equivalent to the motor vehicle to be replaced, as the motor vehicle to be replaced existed at the time of original acquisition, including any service contract, undercoating, rustproofing, and factory or dealer installed options. [A reasonable offset shall be made for the use of the motor vehicle and an additional offset may be made for loss to the fair market value of the vehicle resulting from damage beyond normal wear and tear, unless the damage resulted from the nonconformity.]”

SECTION 3. Section 481I-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) If the manufacturer, its agents, distributors, or authorized dealers are unable to conform the motor vehicle to any applicable express warranty by repairing or correcting any defect or condition which substantially impairs the use, market value, or safety of the motor vehicle after a reasonable number of documented attempts, then the manufacturer shall provide the consumer with a replacement motor vehicle or accept return of the vehicle from the consumer and refund to the consumer the following: the full purchase price including[,] but not limited to[,] charges for undercoating, dealer preparation, transportation and installed options, and all collateral and incidental charges, excluding finance and interest charges, and less a reasonable offset for the consumer’s use of the motor vehicle.

If either a replacement motor vehicle or a refund is awarded, an “offset” may be made for damage to the vehicle not attributable to normal wear and tear, if unrelated to the nonconformity. If a replacement motor vehicle is awarded, a reasonable offset shall be made for the use of the motor vehicle and an additional offset may be made for loss to the fair market value of the vehicle resulting from damage beyond normal wear and tear, unless the damage resulted from the nonconformity. When the manufacturer supplies a replacement motor vehicle, the manufacturer shall be responsible for the general excise tax, and license and registration fees. Refunds made pursuant to this subsection shall be deemed to be refunds of the sales price and treated as such for purposes of section 237-3. Refunds shall be made to the consumer and lienholder, if any, as their interests may appear on the records of ownership. If applicable, refunds shall be made to the lessor and lessee pursuant to rules adopted by the department of commerce and consumer affairs.”

SECTION 4. Section 481I-3, Hawaii Revised Statutes, is amended by amending subsection (i) to read as follows:

“(i) Where the state certified arbitration program is invoked by the consumer of a motor vehicle under express warranties, a decision resolving the dispute shall be rendered within forty-five days after the procedure is invoked. [If no decision is rendered within forty-five days as required by this subsection, the dispute shall be submitted to the regulated industries complaints office of the department of commerce and consumer affairs for investigation and hearing.] However, the failure of an arbitrator to render a decision within forty-five days because of unforeseen circumstances shall not void any subsequent decision.

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Any decision rendered resolving the dispute shall provide appropriate remedies including, but not limited to, the following:

- (1) Provision of a replacement motor vehicle; or
- (2) Acceptance of the motor vehicle from the consumer, refund of the full purchase price, and all collateral and incidental charges.

The decision shall specify a date for performance and completion of all awarded remedies.”

SECTION 5. Section 481I-3, Hawaii Revised Statutes, is amended by amending subsection (k) to read as follows:

“(k) No vehicle transferred to a dealer or manufacturer by a buyer or a lessee under [subsection (b)] this chapter or by judgment, settlement, or arbitration award in this State or in another state may be sold [or], leased, or auctioned by any person unless:

- (1) The nature of the defect experienced by the original buyer or lessee is clearly and conspicuously disclosed on a separate document that must be signed by the manufacturer and the purchaser and must be in ten point, capitalized type, in substantially the following form: “IMPORTANT: THIS VEHICLE WAS RETURNED TO THE MANUFACTURER BECAUSE A DEFECT(S) COVERED BY THE MANUFACTURER’S EXPRESS WARRANTY WAS NOT REPAIRED WITHIN A REASONABLE TIME AS PROVIDED BY [HAWAII] LAW.”;
- (2) The defect is corrected; and
- (3) The manufacturer warrants to the new buyer or lessee, in writing, that if the defect reappears within one year or 12,000 miles after the date of resale, whichever occurs first, it will be corrected at no expense to the consumer.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 1998.

(Approved July 17, 1998.)

## ACT 198

S.B. NO. 2823

A Bill for an Act Relating to Time Share Identification Badges.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 514E-2.6, Hawaii Revised Statutes is amended by amending subsection (a) to read as follows:

“(a) Each person registered under this chapter as an acquisition agent, or sales agent, or resale agent and that person’s employees and independent contractors shall wear an identification badge while [engaged in] off-premises [acquisition agent, sales agent, or resale agent activity, as such] and engaged in acquisition agent or sales agent activity [is] as defined in section 514E-1[.] or activity for which registration is required under Act 231, Session Laws of Hawaii 1992. “Off-premises” shall be deemed to be [acquisition agent, sales agent, or resale agent

activity which occurs in] a place other than in the office of a sales agent, on a project site, or within a developer's principal place of business. Badges shall be worn in plain view, at chest level, and be unobstructed by any clothing or other matter."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 17, 1998.)

## ACT 199

S.B. NO. 2829

A Bill for an Act Relating to Motor Vehicle Repairs.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 437B-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read as follows:

"Licensed mechanic" means a motor vehicle mechanic who has been licensed in accordance with this chapter."

2. By amending the definitions of "motor vehicle mechanic helper" and "motor vehicle repair dealer" to read as follows:

"Motor vehicle mechanic helper" means any person who, for compensation, engages in the diagnosis or repair of malfunctions of motor vehicles under the supervision of a [registered] licensed motor vehicle mechanic.

"Motor vehicle repair dealer" means any person who is, or has in the person's employ, a motor vehicle mechanic [registered] licensed under this chapter and who, for compensation, engages in the business of diagnosing or repairing malfunctions of motor vehicles."

3. By deleting the definition of "registered mechanic".

["Registered mechanic" is a motor vehicle mechanic who has registered in accordance with this chapter."]

SECTION 2. Section 437B-2, Hawaii Revised Statutes, is amended to read as follows:

**"§437B-2 Applicability of chapter.** This chapter does not apply to:

- (1) Employees of the county, state, or federal governments when carrying out the functions of governmental employment; or
- (2) Employees of a commercial or business enterprise who engage in the repair of motor vehicles which are owned, maintained, and operated exclusively by such commercial or business enterprise and which are not leased or rented to others; provided that employees may voluntarily [register] be licensed pursuant to this chapter."

SECTION 3. Section 437B-4, Hawaii Revised Statutes, is amended to read as follows:

**“§437B-4 Powers and duties of board.** In addition to any other powers and duties authorized by law, the board, in accordance with this chapter and chapter 91 shall:

- (1) Establish such qualifications for the [registration] licensing of motor vehicle repair dealers and motor vehicle mechanics as may be necessary for the welfare of the public and the motor vehicle repair industry[.]; provided that no person shall be [registered] licensed as a motor vehicle mechanic without first receiving certification as provided by this chapter;
- (2) Inquire into the practices and policies of the motor vehicle repair industry and make rules with respect to such practices and policies as may be deemed important and necessary by the board for the welfare of the public and the motor vehicle repair industry;
- (3) Contract and cooperate with the University of Hawaii in developing and administering the certification program provided for in this chapter;
- (4) Adopt, amend, and repeal such rules not inconsistent with this chapter, as the board deems appropriate for effectuating the purpose of this chapter and to ensure the welfare of the public;
- (5) Adopt rules pursuant to chapter 91 necessary to implement the provisions of this chapter relating to CFCs; and
- (6) Enforce this chapter and rules adopted pursuant thereto.’’

SECTION 4. Section 437B-7, Hawaii Revised Statutes, is amended to read as follows:

**“§437B-7 [Registration] License required.** On or after January 1, 1976, it shall be unlawful for any person to engage in the repair of motor vehicles for compensation without [registering] being licensed as a motor vehicle repair dealer or motor vehicle mechanic in accordance with this chapter. Every motor vehicle repair dealer shall be a motor vehicle mechanic or shall have at least one motor vehicle mechanic in the dealer’s employ. No motor vehicle mechanic shall engage in the repair of motor vehicles unless that person is also [registered] licensed as a motor vehicle repair dealer or unless that person is in the employ of a motor vehicle repair dealer.’’

SECTION 5. Section 437B-7.5, Hawaii Revised Statutes, is amended to read as follows:

**“[[§437B-7.5]] Requirements for [registration] licensing of repair dealer; inspection.** (a) Before a motor vehicle repair dealer [registration] license is granted by the board, the applicant shall establish that the applicant is or employs a full-time motor vehicle mechanic [registered] licensed with the board, and has a repair facility and the equipment necessary to properly perform work in the specialty or area of certification [in] for which [registration] licensure is requested.

(b) The board may inspect an applicant’s repair facility and equipment prior to [registration,] licensing, and may conduct subsequent inspections of repair facilities to verify continued compliance with subsection (a).’’

SECTION 6. Section 437B-9, Hawaii Revised Statutes, is amended to read as follows:

**“§437B-9 Fees: application; biennial renewals; [registration;] license; restoration.** (a) The fees for each application, original biennial [registration,]



license, and renewal for the motor vehicle repair dealer and the motor vehicle mechanic shall be as provided in rules adopted by the department pursuant to chapter 91. At the time of [registration] license renewal, each [registrant] licensee shall submit a completed renewal application and all applicable fees, and shall demonstrate continued compliance with all [registration] license and certification requirements.

(b) Any motor vehicle repair dealer maintaining more than one motor vehicle repair facility shall separately [register] license each repair facility, providing the name of the full-time motor vehicle mechanic for the facility, and pay a fee for each facility.

(c) The renewal fee shall be paid to the board on or before June 30 of each odd-numbered year. Failure, neglect, or refusal of any [registrant] licensee to pay the biennial renewal fee before the date shall constitute a forfeiture of the [registration.] license. Any [registration] license may be restored within one year after the date of forfeiture upon compliance with the renewal requirements and upon written application and the payment of the required fee plus an amount equal to fifty per cent thereof. Any [registrant] licensee who fails to restore [registration] a license within one year from the date of forfeiture shall reapply for [registration] a license as a new applicant.”

SECTION 7. Section 437B-20, Hawaii Revised Statutes, is amended to read as follows:

“[[§437B-20]] **[Registration] License condition precedent to lien.** No person required to [register] be licensed under this chapter shall have the benefit of any lien for labor or materials or the right to sue on a contract for motor vehicle repairs done by the person unless the person was [registered] licensed at the time the person performed the contract.”

SECTION 8. Sections 437B-8, 437B-11, 437B-11.3, 437B-11.5, 437B-12, 437B-24, and 437B-26, Hawaii Revised Statutes, are amended by substituting the word “license”, or like terms, wherever the word “registration”, or like terms, appears, as the context requires.

SECTION 9. Sections 437B-3, 437B-8, 437B-10, and 437B-23.5, Hawaii Revised Statutes, are amended by substituting the word “licensed”, or like terms, wherever the word “registered”, or like terms, appears, as the context requires.

SECTION 10. Section 437B-11.3, Hawaii Revised Statutes, is amended by substituting the word “unlicensed”, or like terms, wherever the word “unregistered”, or like terms, appears, as the context requires.

SECTION 11. Sections 437B-8 and 437B-26, Hawaii Revised Statutes, are amended by substituting the word “licensee”, or like terms, wherever the word “registrant”, or like terms, appears, as the context requires.

SECTION 12. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 13. This Act shall take effect upon its approval.

(Approved July 17, 1998.)

A Bill for an Act Relating to Investigative Subpoenas.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 487-9, Hawaii Revised Statutes, is amended to read as follows:

**“§487-9 Investigations.** The director in the course of the director’s investigations [is empowered pursuant to and in accordance with the rules of court to] may subpoena witnesses, examine them under oath, and require the production of books, papers, documents, or objects which the director deems relevant [or material] to the [inquiry.] investigation. Service of the subpoena may be made personally within this State, but if personal service cannot be obtained, substituted service may be made on any witness over whom the courts can exercise jurisdiction pursuant to chapter 634, in the following manner:

- (1) Personal service outside the State;
- (2) Mailing by registered or certified mail to the last known place of business, residence, or abode within or without this State of the person to be served;
- (3) As to any person other than a natural person, in the manner provided in the Hawaii Rules of Civil Procedure as if a complaint had been filed; or
- (4) Such service as the circuit court may direct in lieu of personal service within this State.

Upon application by the director, obedience to the subpoena may be enforced by the circuit [court] courts of this State in the county where the person subpoenaed resides or is found in the same manner as a subpoena issued by the clerk of a circuit court. If the person is a nonresident or has no principal place of business within this State, obedience to the subpoena may also be enforced by a circuit court of this State in the county where the subpoena was issued. The director may conduct hearings in aid of any investigation or inquiry, and may prescribe [such] forms and [promulgate such] adopt rules [and regulations] as may be necessary in the interest of the consumer public.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 17, 1998.)

A Bill for an Act Relating to Motor Vehicle Lease Disclosure.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 481L-2, Hawaii Revised Statutes, is amended to read as follows:

**“[[§481L-2[ ]] Disclosures.** A retail lessor shall:

- (1) Disclose in the lease agreement provided to the lessee, in a clear and conspicuous manner, any and all material terms, conditions, and limitations that apply to the lease agreement, including but not limited to the consumer lease disclosures required by the federal Truth in Lending Act and rules adopted under that Act;
- (2) Disclose to the retail lessee in the lease agreement in a separate blocked section, in capital letters of at least ten point bold type, as follows: **THIS IS A LEASE AGREEMENT. THIS IS NOT A PURCHASE AGREEMENT. PLEASE REVIEW THESE MATTERS CAREFULLY AND SEEK INDEPENDENT PROFESSIONAL ADVICE IF YOU HAVE ANY QUESTIONS CONCERNING THIS TRANSACTION. YOU ARE ENTITLED TO AN EXACT COPY OF THE AGREEMENT YOU SIGN. GET ALL PROMISES IN WRITING. ORAL PROMISES ARE DIFFICULT TO ENFORCE.[] IF YOU REQUEST IT, YOU CAN RECEIVE A COPY OF YOUR LESSOR'S LEASE CALCULATION WORKSHEET BEFORE YOU SIGN OR WITHIN SIX MONTHS AFTER SIGNING. YOU CAN ALSO RECEIVE UPON REQUEST A COPY OF ANY OF THE DOCUMENTS YOU REVIEWED DURING THE LEASE TRANSACTION.;**
- (3) Disclose to the retail lessee in the lease agreement in capital letters of at least ten point bold type, with the appropriate amounts specified, the following:
  - (A) THE GROSS CAPITALIZED COST \$ \_\_\_\_\_
  - (B) THE CAPITALIZED COST REDUCTION \$ \_\_\_\_\_
  - (C) THE ADJUSTED CAPITALIZED COST \$ \_\_\_\_\_ ;
- (4) Provide the retail lessee with a copy of each document that is signed by the retail lessee during the course of the lease transaction and any document that is referenced or incorporated into the lease agreement. Also, provide the retail lessee with a copy of each document requested by the retail lessee that is presented during the course of the lease transaction;
- (5) Prepare all disclosures made pursuant to [sections 481L-2] this section and section 481L-3 and all documents executed in a lease transaction in the language principally used in negotiating the lease transaction; and
- (6) Upon request by the retail lessee at any time during the lease transaction and at any time during the first six months of the term of the lease agreement, provide to the retail lessee at no cost to the retail lessee a copy of the retail lessor's worksheets used to calculate the periodic lease payment. Worksheets that are stored on computer media shall be reduced to printed form for the lessee. The worksheets shall be maintained by the retail lessor or its agents during the first six months of the term of the lease agreement. The retail lessor shall not be required to provide those portions of any worksheets that contain dealer markup information or lease assignment settlement amounts."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 17, 1998.)

A Bill for an Act Relating to Insurance Premium Taxes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431:7-201, Hawaii Revised Statutes, is amended to read as follows:

**“§431:7-201 Annual [tax statement.] and quarterly tax statements. (a)** Each authorized insurer shall file with the commissioner annually, on or before March 1 in each year, a statement signed by [some] a duly authorized person on its behalf, setting forth the total business transacted, and the amount of gross premiums received by the insurer during the year ending on the preceding December 31, from all risks or property resident, situated, or located within this State, together with such other information as may be required by the commissioner in order to determine the taxability of premiums. The term gross premiums as used in this part shall not include consideration paid for annuities.

**(b)** Each authorized insurer shall file with the commissioner quarterly, on or before the last day of the calendar month following the quarter, a statement signed by a duly authorized person on its behalf, setting forth the total business transacted and the amount of gross premiums received by the insurer during the quarter from all risks or property resident, situated, or located within this State, together with other information as may be required by the commissioner to determine the taxability of premiums.

**(c)** Any insurer failing or refusing to file the annual tax statement on or before March 1, or the quarterly statement on or before the last day of the calendar month following the quarter, shall be liable for a fine in an amount not less than \$100 and not more than \$500 for each day of delinquency.”

SECTION 2. Section 431:7-202, Hawaii Revised Statutes, is amended to read as follows:

**“§431:7-202 Taxation. (a)** Each authorized insurer, except with respect to all life insurance contracts, ocean marine insurance contracts, and real property title insurance contracts, shall pay to the director of finance through the commissioner a tax of [4.7 per cent for the period July 1, 1992, to June 30, 1993, and] 4.265 per cent [on July 1, 1993, and thereafter] on the gross premiums received from all risks or property resident, situated, or located within this State, during the year ending on the preceding December 31, less return premiums (but not including dividends paid or credited to policyholders), and less any reinsurance accepted (the tax upon such business being payable by the direct writing insurer).

All premiums written, procured, or received in the State shall be presumed to have been from risks or property resident, situated, or located within the State. This presumption may be rebutted as to any premium:

- (1) By showing that it has been properly allocated or apportioned and reported as a taxable premium of another state or other appropriate taxing authority; or
- (2) By facts as to the residence, situation, or location of the risks or property, conclusively showing the nontaxability of the premium.

**(b)** Each authorized insurer, with respect to life insurance contracts, shall pay to the director of finance through the commissioner a tax of 2.75 per cent on the gross premiums received from all risks resident within this State, during the year ending on the preceding December 31, less return premiums, dividends paid or

credited to policyholders, and reinsurance accepted (the tax upon such business being payable by the direct writing insurer).

The tax also shall apply to premiums for insurance written on individuals residing outside the State unless the direct writing insurer shall show the payment of a comparable tax to another appropriate taxing authority. Such showing may be required as to any premium written, procured, or received in the State.

(c) Each authorized insurer shall, with respect to all ocean marine insurance contracts written within the State, during the year ending on the preceding December 31, pay to the director of finance through the commissioner a tax of .8775 per cent on its gross underwriting profit. The gross underwriting profit shall be ascertained by deducting from the net premiums (i.e., gross premiums less all return premiums and premiums for reinsurance ceded) on such ocean marine insurance contracts, the net losses paid (i.e., gross losses paid less salvage and recoveries on reinsurance ceded) during such year under such contracts. In the case of an insurer issuing participating contracts, the gross underwriting profit shall not include, for computation of the tax prescribed by this subsection, the amount refunded, or paid as participation dividends, by such insurer to the holders of such contracts.

(d) Each authorized insurer, with respect to real property title insurance contracts written on real property situated within this State during the year ending on the preceding December 31, shall pay to the director of finance through the commissioner a tax of 4.265 per cent of the amount of the risk premium actually received by the authorized insurer for the provision of such insurance. The amount of the risk premium received by the authorized insurer for the provision of real property title insurance shall be an amount equal to the amount actually received by the authorized insurer solely for the provision of real property title insurance coverage in accordance with the underwriting agreement or contract between the authorized insurer and the underwritten title company.

(e) No return premium shall be deductible unless the original gross premium, or an adjustment thereof, in an amount equal to or in excess of the return premium, has been concurrently or previously reported as taxable under this section or a prior similar law of the State.

(f) [The tax shall be due and payable on or before March 1 coinciding with the filing of the statement provided for in section 431:7-201. Any insurer failing or refusing to render the statement and to pay the required taxes above stated shall be liable to a penalty of \$25 for each day of delinquency; the] The taxes imposed by subsections (a), (b), (c), and (d) shall be paid quarterly. The quarterly tax shall be due and payable on or before the last day of the calendar month following the quarter in which it accrues, coinciding with the filing of the statement provided for in section 431:7-201.

In addition to the quarterly tax and quarterly tax statement, the annual tax shall be due and payable on or before March 1 coinciding with the filing of the statement provided for in section 431:7-201.

All amounts paid under this subsection, other than fines, shall be allowed as a credit on the annual tax imposed by subsections (a), (b), (c), and (d).

If the total amount of installment payments for any calendar year exceeds the amount of annual tax for that year, the excess shall be treated as an overpayment of the annual tax and be allowed as a refund under section 431:7-203.

Any insurer failing or refusing to pay the required taxes above stated when due and payable shall be liable for a fine of \$500 or ten per cent of the tax due, whichever is greater; plus interest at a rate of twelve per cent per annum on the delinquent taxes. The taxes may be collected by distraint, [and the penalty] or the taxes, fine, and interest may be recovered by an action to be instituted by the commissioner in the name of this State, in any court of competent jurisdiction. The

commissioner may suspend the certificate of authority of the delinquent insurer until the taxes [and], fine, and interest, should any be imposed, are fully paid.

[(g) Taxes imposed by subsections (a), (b), (c), and (d) shall be paid as follows:

- (1) Insurers whose annual tax liability for the preceding year was more than \$5,000 shall pay their taxes on a monthly basis. The taxes shall be due and payable on or before the last day of the calendar month following the month in which they accrue;
- (2) Insurers whose annual tax liability for the preceding year was more than \$1,000 and up to \$5,000 shall pay their taxes on a quarterly basis. The taxes shall be due and payable on or before the last day of the calendar month following the quarter in which they accrue; and
- (3) Insurers whose annual tax liability for the preceding year was \$1,000 or less shall pay their taxes as provided for in subsection (f).]

(g) In establishing the prepayment amount of an insurer who has acquired the business of another insurer, the amount of tax liability of the acquiring insurer for the preceding calendar year shall be deemed to include the amount of tax liability of the acquired insurer for that year.

[All amounts paid under this subsection, other than penalties, shall be allowed as a credit on the annual tax imposed by subsections (a), (b), (c), and (d).

If the total amount of installment payments for any calendar year exceeds the amount of annual tax for that year, the excess shall be treated as an overpayment of annual tax and be allowed as a refund under section 431:7-203. Any insurer failing to pay taxes when due and payable, shall be liable to a penalty of \$25 for each day of delinquency; the taxes may be collected by distraint, and the penalty recovered by an action to be instituted by the commissioner in the name of the State, in any court of competent jurisdiction. The commissioner may suspend the certificate of authority of the delinquent insurer until the taxes and fine, should any be imposed, are fully paid.]”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on January 1, 1999.

(Approved July 17, 1998.)

**ACT 203**

S.B. NO. 2838

A Bill for an Act Relating to Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431:9-201, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) No person engaging in the business of insurance in this State shall act as, be appointed as, or hold oneself out to be a general agent, subagent, solicitor, or adjuster unless so licensed by this State.

(b) No general agent, subagent, or solicitor in this State shall solicit or take applications for, procure, or place for others any class of insurance for which the general agent, subagent, or solicitor is not licensed[.] and does not hold an appointment from the insurer in this State for that class of insurance.”

SECTION 2. Section 431:9-211, Hawaii Revised Statutes, is amended to read as follows:

**“§431:9-211 Appointment [and], revocation, or termination of general agents and subagents.** (a) Each insurer on appointing a general agent, and each general agent or domestic insurer on appointing a subagent in this State shall file written notice of the appointment in duplicate with the commissioner on forms as prescribed and furnished by the commissioner. If then licensed, or as soon as licensed, the commissioner shall mail one copy of the appointment to the licensee.

(b) Each appointment shall be effective when all parties to the appointment have signed the notice of appointment form. The appointment form shall be [mailed to] received by the commissioner within [ten] fifteen days after the signature of the last party. The effective date of the appointment shall be the date on which the last party signs the appointment form if the appointment form is [mailed] received within the [ten-day] fifteen-day period. If the appointment form is not [mailed] received within [ten] fifteen days, the effective date of the appointment shall be the date on which the commissioner receives the appointment form. The appointment shall continue in force until:

- (1) The commissioner notifies the insurer that the person so appointed is no longer licensed as a general agent by this State;
- (2) The commissioner notifies the general agent or domestic insurer that the person so appointed is no longer licensed as a subagent by this State;
- (3) The appointment as general agent is:
  - (A) Revoked by the insurer by written notice of the revocation to the general agent; or
  - (B) Terminated by the general agent by written notice of the termination to the insurer; or
- (4) The appointment as subagent is:
  - (A) Revoked by the general agent or domestic insurer by written notice of the revocation to the subagent; or
  - (B) Terminated by the subagent by written notice of the termination to the general agent or domestic insurer.

(c) [Any person who revokes or terminates shall file within ten days with the commissioner a copy of the notice of revocation or termination.] A copy of the notice of revocation or termination shall be mailed or delivered to the commissioner by the person revoking or terminating the general agent or subagent and shall be received by the commissioner within fifteen days from the date a person revokes or terminates a general agent or subagent.

(d) Revocation or termination of an appointment by an insurer or a general agent shall be deemed to be effective as of the date designated in the notice as being the effective date [if the notice is actually received by the licensee prior to such designated date; otherwise, as of the earlier of the following dates:

- (1) The date the notice of revocation was received by the licensee;
- (2) The date the notice, if mailed to the licensee at the licensee’s last address of record with the insurer, in due course should have been received by the licensee.]

if a copy of the notice of the revocation or termination is received by the commissioner within fifteen days of the date designated in the notice. If the notice of the revocation or termination is not received by the commissioner within fifteen days of the date designated in the notice, the effective date of the revocation or termination shall be the date on which the commissioner receives the notice.”

## ACT 203

SECTION 3. Section 431:9-216, Hawaii Revised Statutes, is amended to read as follows:

“**§431:9-216 Solicitors; appointment [and], revocation[.], or termination.** (a) Each general agent, subagent, or domestic insurer on appointing a solicitor in this State shall file written notice of the appointment in triplicate with the commissioner on forms prescribed and furnished by the commissioner. The commissioner shall mail one copy of the appointment to the [licensee] appointing general agent, subagent, or domestic insurer, if then licensed, or as soon as licensed.

(b) Each appointment shall be effective when all parties to the appointment have signed the notice of appointment form. The appointment form shall be [mailed to] received by the commissioner within [ten] fifteen days after the signature of the last party. The effective date of the appointment shall be the date on which the last party signs the notice of appointment form if the appointment form is [mailed] received within the [ten-day] fifteen-day period. If the appointment form is not [mailed] received within [ten] fifteen days, the effective date of the appointment shall be the date on which the commissioner receives the appointment form. The appointment shall continue in force until:

- (1) The commissioner notifies the general agent, subagent, or domestic insurer that the person so appointed is no longer licensed as a solicitor by this State;
- (2) The appointment is revoked by the general agent, subagent, or domestic insurer by written notice of the revocation to the solicitor; or
- (3) The appointment is terminated by the solicitor by written notice of the termination to the general agent, subagent, or domestic insurer.

(c) [Any person who revokes or terminates shall file within ten days with the commissioner a copy of the notice of revocation or termination.] A copy of the notice of revocation or termination shall be mailed or delivered to the commissioner by the person revoking or terminating the general agent, subagent, or domestic insurer and shall be received by the commissioner within fifteen days from the date a person revokes or terminates a general agent or subagent.

(d) Revocation or termination of an appointment by a general agent, subagent, or domestic insurer shall be deemed to be effective as of the date designated in the notice as being the effective date[, if the notice is actually received by the solicitor prior to the designated date; otherwise, as of the earlier of the following dates:

- (1) The date the notice of revocation was received by the solicitor; or
- (2) The date the notice, if mailed to the solicitor at the solicitor's last residence of record with<sup>1</sup> solicitor's employer, in due course should have been received by the solicitor.]

if a copy of the notice of the revocation or termination is received by the commissioner within fifteen days of the date designated in the notice. If the notice of the revocation or termination is not received by the commissioner within fifteen days of the date designated in the notice, the effective date of the revocation or termination shall be the date on which the commissioner receives the notice.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 17, 1998.)



## Note

1. Prior to amendment “the” appeared here.

## ACT 204

S.B. NO. 2842

A Bill for an Act Relating to the Hawaii Medical Malpractice Underwriting Plan.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 435C-2, Hawaii Revised Statutes, is amended by amending the definition of “net direct premiums” to read as follows:

““Net direct premiums” means general casualty insurance direct premiums written as reported on [page 14] the Hawaii State Page of the Exhibit of Premium and Losses of the annual statement under medical malpractice, workers’ compensation, and other liability lines of business.”

SECTION 2. Section 435C-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) (1) The rates, rating plan, rating classifications, territory, and policy forms applicable to the insurance written by the plan and statistics relating thereto shall be subject to sections [431-691 to 431-707] 431:14-101 to 431:14-117 unless otherwise provided hereto, giving due consideration to the past and prospective loss and expense experience within and outside this State for medical malpractice insurance of all of the member companies of the plan, trends in the frequency and severity of losses, the investment income of the plan, and such other information as the insurance commissioner may require[.];
- (2) Any deficit sustained by the plan in any one year shall be recouped, pursuant to the plan of operation and the rating plan then in effect by one or both of the following procedures:
- (A) An assessment upon the policyholders;
- (B) A rate increase applicable prospectively[.];
- (3) Effective after the initial year of operation, rating plans and rating rules, and any provisions of recoupment through policyholder assessment or premium rate increase, should be based upon the plan’s loss and expense experience, together with such other information based upon such experience as the insurance commissioner may deem appropriate. The resultant premium rates shall be on an actuarially sound basis and shall be calculated to be self-supporting[.];
- (4) In the event that sufficient funds are not available for the sound financial operation of the plan, pending recoupment as provided in paragraph (3) of this subsection, all members shall, on a temporary basis contribute to the financial requirements of the plan in the manner provided for in section 435C-5 [of this chapter]. Any such contribution shall be reimbursed to the members following recoupment as provided in paragraph (3) of this subsection[.]; and
- (5) The commissioner shall consider requiring the plan to offer policies on a claims made or occurrence basis; provided[, however,] that the premium rate charged for the policies shall be at rates established on an actuarially sound basis and which are calculated to be self-supporting.”

## ACT 205

SECTION 3. Section 435C-5, Hawaii Revised Statutes, is amended to read as follows:

“[[§435C-5]] Participation. All insurers [which] that are members of the plan shall participate in its [writings,] expenses, profits, and losses in the proportion that the net direct premiums of each such member (excluding that portion of premiums attributable to the operation of the plan) written during the preceding calendar year bears to the aggregate net direct premiums written in this State by all members of the plan. Insurers that are members of the plan may also be appointed by the insurance commissioner as servicing companies to underwrite the medical malpractice insurance. Each insurer’s participation in the plan shall be determined annually on the basis of such net direct premiums written during the preceding calendar year, as reported in the annual statements and other reports filed by the insurer with the insurance commissioner. No member shall be obligated in any one year to reimburse the plan on account of its proportionate share in the deficit from operations of the plan in that year in excess of one per cent of its policyholders’ surplus and the aggregate amount not so reimbursed shall be reallocated among the remaining members in accordance with the method of determining participation prescribed in this [subdivision] section after excluding from the computation the total net direct premiums of all members not sharing in [such] the excess deficit. In the event that the deficit from operations allocated to all members of the plan in any calendar year shall exceed one per cent of their respective policyholders’ surplus, the amount of such deficit shall be allocated to each member in accordance with the method of determining participation prescribed in this [subdivision.] section.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 17, 1998.)

## ACT 205

S.B. NO. 2889

A Bill for an Act Relating to the Department of Labor and Industrial Relations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 26-20, Hawaii Revised Statutes, is amended to read as follows:

“**§26-20 Department of labor and industrial relations.** The department of labor and industrial relations shall be headed by a single executive to be known as the director of labor and industrial relations.

The department shall administer programs designed to increase the economic security, physical and economic well-being, and productivity of workers, and to achieve good labor-management relations, including the administration of workers’ compensation, employment security, apprenticeship training, wage and hour, and industrial relations laws. The department shall also have the function of developing, preparing, and disseminating information on employment, unemployment, and general labor market conditions.

[There shall be within the department of labor and industrial relations a committee to be known as the advisory committee on labor and industrial relations

which shall sit in an advisory capacity to the director of labor and industrial relations on matters within the jurisdiction of the department of labor and industrial relations. The advisory committee shall consist of an equal number of representatives from labor, from management, and from the public, appointed by the director who shall designate one of the public members as chairperson.]

The labor and industrial relations appeal board [and the industrial accident boards] provided for in chapters 371 and 386 [are] is placed within the department of labor and industrial relations for administrative purposes. The respective functions, duties, and powers, subject to the administrative control of the director of labor and industrial relations, and the composition of [each] the board shall be as heretofore provided by law.

There shall be within the department of labor and industrial relations a board to be known as the Hawaii labor relations board as provided for in section 89-5, which shall exercise powers and duties in accordance with chapters 89 and 377. The director shall have general administrative supervision over the board, but shall not have the power to supervise or control the board in the exercise of its powers or duties.

The functions of mediation heretofore exercised by the commission of labor and industrial relations existing immediately prior to November 25, 1959, as provided in section 371-10, shall be exercised by the governor or the governor's designated agent.

The director may establish within the department of labor and industrial relations a committee to be known as the apprenticeship council which shall sit in an advisory capacity to the director of labor and industrial relations on matters within the jurisdiction of the department of labor and industrial relations relating to apprenticeship programs. The membership and organization of the council shall be determined by the director.

The functions and authority heretofore exercised by the department of labor and industrial relations, Hawaii [employment] labor relations board, and apprenticeship council as heretofore constituted are transferred to the department of labor and industrial relations established by this chapter.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 17, 1998.)

## ACT 206

S.B. NO. 2966

A Bill for an Act Relating to Criminal Injuries Compensation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to establish a system of compensation fees for the criminal injuries compensation commission that will eventually eliminate the need for appropriations from the state general fund. This Act provides for the transition from general fund to special fund. The compensation fees will be used by the commission for crime victim compensation payments and for operating costs, and by other governmental agencies that are involved in the collection of compensation fees. Of the fifty states with a compensation program, thirty-four are able to maintain self-sufficiency through funding from compensation fees, fines,

penalties, civil recoveries, and restitution. They are not dependent on state appropriations to fund their compensation and operating costs.

Through the imposition of compensation fees, a criminal offender repays not only society, but also persons injured by the offender's act. Society thus benefits not once, but twice. This system will be supported by convicted defendants, and taxpayers would be relieved of this burden.

SECTION 2. Chapter 351, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§351- Compensation fee.** (a) The court shall impose a compensation fee upon every convicted defendant who is or will be able to pay the compensation fee. The amount of the compensation fee shall be commensurate with the seriousness of the offense as follows:

- (1) Not less than \$100 nor more than \$500 for conviction of a felony;
- (2) \$50 for conviction of a misdemeanor; and
- (3) \$25 for conviction of a petty misdemeanor.

The compensation fee shall be separate from any fine that may be imposed under section 706-640 and shall be in addition to any other disposition under this chapter; provided that the court shall waive the imposition of a compensation fee if the defendant is unable to pay the compensation fee. Moneys from the compensation fees shall be deposited into the criminal injuries compensation fund under section 351-62.5.

(b) The criteria of section 706-641 may apply to this section. In setting the amount of the compensation fee to be imposed, the court shall consider all relevant factors, including but not limited to:

- (1) The seriousness of the offense;
  - (2) The circumstances of the commission of the offense;
  - (3) The economic gain, if any, realized by the defendant;
  - (4) The number of victims; and
  - (5) The defendant's earning capacity, including future earning capacity.
- (c) The compensation fee shall be considered a civil judgment.”

SECTION 3. Section 351-62.5, Hawaii Revised Statutes, is amended to read as follows:

**“§351-62.5 Criminal injuries compensation special fund; when payments authorized.** (a) There is established a criminal injuries compensation special fund from which the [criminal injuries compensation] commission may make payments as provided in subsection (b). [The director of finance shall be custodian of the fund, and all payments therefrom shall be paid by the director upon orders by the commission.] The fund shall be administered by the director of public safety for purposes of this chapter. Interest and investment earnings credited to the assets of the fund shall become part of the fund. Any balance remaining in the fund at the end of any fiscal year shall be carried forward for the next fiscal year.

(b) Where the commission has made an award pursuant to this chapter, the commission shall make the payments to or on behalf of the victim or one or more of the dependents of a deceased victim, or to or for the benefit of other persons who have suffered pecuniary loss or incurred expenses on account of hospital, medical, funeral, or burial expenses as a result of the victim's injury or death. Victims or dependents entitled to receive awards shall be notified of the option to have payments made on their behalf to other designated persons. Payments made pursuant to this section shall not exceed the total amount of the award.

(c) The amount appropriated under section 351-70 shall be redeposited into the fund and applied to other payments as authorized by the commission.

(d) Funds received pursuant to section 354D-12(b)(1) and amounts received pursuant to sections 351-35 [and], 351-63, 351- , and 706-605 shall be deposited into the criminal injuries compensation special fund. Moneys received shall be used for compensation payments and operating expenses, of which not more than thirty per cent shall be used for operating expenses and to fund positions as authorized by the legislature. The criminal injuries compensation commission may enter into memorandums of agreement with the judiciary for the collection of fees by the judiciary; provided that no funds shall be deposited by the judiciary into the criminal injuries compensation special fund until collected.”

SECTION 4. Section 706-605, Hawaii Revised Statutes, is amended to read as follows:

**“§706-605 Authorized disposition of convicted defendants.** (1) Except as provided in parts II and IV of this chapter and [subsection (2)] subsections (2) and (6) of this section and subject to the applicable provisions of this Code, the court may sentence a convicted defendant to one or more of the following dispositions:

- (a) To be placed on probation as authorized by part II of this chapter;
- (b) To pay a fine as authorized by part III and section 706-624 of this chapter;
- (c) To be imprisoned for a term as authorized by part IV of this chapter;
- (d) To make restitution in an amount the defendant can afford to pay; provided that the court may order any restitution to be paid to the criminal injuries compensation [commission] special fund in the event that the victim has been given an award for compensation under chapter 351 and, if the court orders, in addition to restitution, payment of fine in accordance with paragraph (b), the payment of restitution and a compensation fee shall have priority over the payment of the fine; payment of restitution shall have priority over payment of a compensation fee; or
- (e) To perform services for the community under the supervision of a governmental agency or benevolent or charitable organization or other community service group or appropriate supervisor, provided that the convicted person who performs such services shall not be deemed to be an employee of the governmental agency or assigned work site for any purpose. All persons sentenced to perform community service shall be screened and assessed for appropriate placement by a governmental agency coordinating public service work placement as a condition of sentence.

(2) The court shall not sentence a defendant to probation and imprisonment except as authorized by part II of this chapter.

(3) In addition to any disposition authorized in subsection (1) of this section, the court may sentence a person convicted of a misdemeanor or petty misdemeanor to a suspended sentence.

(4) The court may sentence a person who has been convicted of a violation to any disposition authorized in subsection (1) of this section except imprisonment.

(5) The court shall sentence a corporation or unincorporated association which has been convicted of an offense in accordance with section 706-608.

(6) The court shall impose a compensation fee upon every person convicted of a criminal offense pursuant to section 351- ; provided that the court shall waive the imposition of a compensation fee if it finds that the defendant is unable to pay the compensation fee.

## ACT 207

[(6)] (7) This chapter does not deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. Such a judgment or order may be included in the sentence.”

SECTION 5. This Act shall apply to any case in which a sentence is imposed after the effective date of this Act.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect on July 1, 1998.

(Approved July 17, 1998.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 207

S.B. NO. 2981

A Bill for an Act Relating to Motor Vehicle Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 431:10C-107, Hawaii Revised Statutes, is amended to read as follows:

“**§431:10C-107 Verification of insurance: motor vehicles.** (a) Every insurer shall issue to its insureds a motor vehicle insurance identification card for each motor vehicle for which the basic motor vehicle insurance coverage is written. The identification card shall contain the following:

- (1) Name of make and factory or serial number of the motor vehicle; provided that insurers of five or more motor vehicles which are under common registered ownership and used in the regular course of business shall not be required to indicate the name of make and the factory or serial number of each motor vehicle;
- (2) Policy number;
- (3) Names of the insured and the insurer; and
- (4) Effective dates of coverage including the expiration date.

(b) The identification card shall be in the insured motor vehicle at all times and shall be exhibited to a law enforcement officer upon demand.

(c) The identification card shall be resistant to forgery by whatever means appropriate. The commissioner shall approve the construction, form, and design of the identification card to ensure that the card is forgery resistant.

[(c)] (d) The commissioner shall issue a certificate of self-insurance periodically, as necessary, for use in each motor vehicle insured under section 431:10C-105.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect on January 1, 1999.

(Approved July 17, 1998.)

## ACT 208

S.B. NO. 3015

A Bill for an Act Relating to the General Excise Tax Exemption for Aircraft Service and Maintenance Facilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 237-24.9, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) As used in this section:

“Aircraft” means any craft or artificial contrivance of whatever description engaged in intrastate, interstate, or international scheduled commercial use as defined in chapter 263, that operates with two or more jet engines.

“Aircraft service and maintenance” [includes] means all scheduled and unscheduled tasks[, inspections, modifications,] performed within an aircraft service and maintenance facility for the inspection, modification, maintenance, and repair of aircraft and related components[.] including engines, hydraulic and electrical systems, and all other components which are an integral part of an aircraft.

“Aircraft service and maintenance facility” means a facility for aircraft service and maintenance that is not less than [eighty] thirty thousand square feet in area, and which may include ancillary space which is integral to the facility, such as parts and inventory warehouse space, tool rooms, and related administrative and employee space.

“Construction of an aircraft service and maintenance facility” [includes] means all design, engineering, labor, and material costs associated with the construction of facilities the principle purpose of which is the provision of facilities for aircraft service and maintenance.

“Maintenance” means the upkeep of aircraft engines, hydraulic and electrical systems, and all other components which are an integral part of an aircraft, but does not include refueling, janitorial services or cleaning, restocking of aircraft and passenger supplies, or loading or unloading of cargo and passenger baggage.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval and shall apply to taxable periods beginning after June 30, 1997.

(Approved July 17, 1998.)

## ACT 209

S.B. NO. 3018

A Bill for an Act Relating to the Uniform Commercial Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 490:1-105, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

“(2) Where one of the following provisions of this chapter specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

## ACT 210

Rights of creditors against sold goods. Section 490:2-402.  
Applicability of the Article on Leases. Sections 490:2A-105 and 490:2A-106.  
Applicability of the Article on Bank Deposits and Collections. Section 490:4-102.  
Governing law in the Article on Funds Transfers. Section 490:4A-507.  
Letters of Credit. Section 490:5-116.  
[Bulk sales subject to the Article on Bulk Sales. Section 490:6-103.]  
Applicability of the Article on Investment Securities. Section 490:8-110.  
Perfection provisions of the Article on Secured Transactions. Section 490:9-103.”

SECTION 2. Section 490:2-403, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

“(4) The rights of other purchasers of goods and of lien creditors are governed by the Articles on Secured Transactions (Article 9)[, Bulk Sales (Article 6)] and Documents of Title (Article 7).”

SECTION 3. Article 6 of chapter 490, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 490:9-111, Hawaii Revised Statutes, is repealed.

SECTION 5. Statutory material to be repealed is bracketed.<sup>1</sup>

SECTION 6. This Act shall take effect upon its approval.

(Approved July 17, 1998.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 210

S.B. NO. 3024

A Bill for an Act Relating to Quarantine.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 142, Hawaii Revised Statutes, is amended by adding to part I a new section to be appropriately designated and to read as follows:

“§142- **Animal quarantine special fund.** There is established the animal quarantine special fund to be administered by the board of agriculture. All moneys received by the board of agriculture as fees for the quarantine of cats, dogs, and other carnivores pursuant to this chapter, or any state appropriations or other moneys made available for the cost of quarantine, shall be deposited into the special fund. All interest earned or accrued on moneys deposited in the special fund shall become part of the special fund. Moneys in the special fund shall be expended to cover all costs of quarantine but not limited to the costs of salaries, fringe benefits, operating expenses, equipment, motor vehicles, contract with any qualified person or entity for animal care services, operation and maintenance of the quarantine station, and promotional expenses. A reserve shall be appropriated and maintained in the special fund to cover contingency costs including but not limited to accrued vacation leave, unemployment insurance, and workers’ compensation.”



SECTION 2. Section 142-28, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 1998.

(Approved July 17, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 211**

S.B. NO. 3025

A Bill for an Act Relating to Milk Control.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 157, Hawaii Revised Statutes, is amended by adding to part III a new section to be appropriately designated and to read as follows:

“**§157- Milk control special fund.** There is established the milk control special fund to be administered by the board of agriculture. All moneys received by the board of agriculture as application fees and for licenses or otherwise under this chapter, and any state appropriations or other moneys made available to carry out the purposes of this chapter, shall be deposited into the special fund. All interest earned or accrued on moneys deposited in the special fund shall become part of the special fund. Moneys in the special fund shall be expended to cover all costs of administering this chapter including but not limited to the costs of salaries, fringe benefits, operating expenses, equipment, motor vehicles, contracts for services, and promotional expenses. Moneys in the special fund may be transferred to the general fund for salaries and fringe benefits of other state employees assisting in administering this chapter and other related costs. A reserve shall be maintained in the special fund to cover contingency costs including but not limited to accrued vacation leave, unemployment insurance, and worker’s compensation.”

SECTION 2. Section 157-28, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 1998.

(Approved July 17, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to the Housing and Community Development Corporation of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 350, Session Laws of Hawaii 1997, is amended by amending section 1 to read as follows:

“SECTION 1. The legislature finds that housing affordability and availability are two of the most critical issues facing the people of Hawaii. Despite efforts to remedy the crisis, large segments of our population are still unable to find safe, decent, and affordable housing.

The legislature recognizes that the home is the basic source of shelter and security in society and is the center of our society that provides the basis for developing our future citizens. Frustration in the inability to obtain the basic necessity of decent shelter and to provide a decent home for one’s family, provokes unrest in our community that is harmful to the overall fiber of our society.

Studies have shown that the causes for the high-cost of housing are multiple. They include the cost and availability of land, the cost of development, the cost and availability of financing, the cost added by government regulation, the cost and availability of labor and materials, and the inflationary state of the economy that makes high-cost housing more profitable to produce and more attractive to “risk” capital. In the most elemental way, the housing shortage is caused by conflicting priorities in our pluralistic society. Additionally, the legislature is aware that the housing market is an all-encompassing market and that neglecting the interests of renters or potential homeowners would not be proper.

It is declared that as a result of the critical shortage of safe and sanitary housing units which are affordable to lower income residents of the State, many persons are forced to occupy overcrowded, unsafe, or unsanitary dwelling accommodations or become homeless. The legislature finds that:

- (1) These conditions cause an increase in discontent, despair, and crime and constitute a menace to the health, safety, morals, and welfare of the inhabitants of the State and impair economic values;
- (2) These conditions cannot be remedied by the ordinary operations of private enterprise;
- (3) The clearance, planning or replanning, financing, development, construction and reconstruction of units, and the providing of safe and sanitary dwelling accommodations are public uses and purposes for which public money may be spent and private property acquired;
- (4) It is in the public interest that work on such projects be instituted as soon as possible to relieve the burden of residents who are in need of shelter; and
- (5) The necessity for this Act is declared as a matter of legislative determination.

The State’s participation is necessary to ensure that decent and affordable housing or housing opportunities are available to all members of our community. The legislature recognizes that the lack of decent housing affects the quality of life of our residents. Resolution of the housing problem is complex due to the interrelatedness of other social and economic issues such as poverty, crime, and unemployment. No problem can be successfully resolved without considering the others. The legislature acknowledges that an integrated, rather than a fragmented, effort is required to cope with these multitude of problems. Thus, efforts on the part of the

State to improve the quality of life of our citizens and to address the impacts of welfare reform should be a coordinated one, taking into account shelter and the social, economic, and physical needs of the people. Coordination should also occur among federal, state, and county agencies, as well as with private sector and nonprofit entities, with each drawing on their strengths and working together in an integrated manner.

The legislature finds that, according to modern management theory, similar major functions of any large organization should be placed in the same organizational unit. Due to historical reasons, the various housing functions of state government are distributed to several different agencies.

The purpose of this Act is to consolidate all state housing functions now under the Hawaii housing authority, the housing finance and development corporation, and the rental housing trust fund, and state housing employees into a single housing and community development corporation. The new housing corporation will subsume the housing functions presently administered by the Hawaii housing authority, the housing finance and development corporation, and the rental housing trust fund. The housing and community development corporation of Hawaii will be headed by a decision making board. The corporation shall also contain various administrative and support services to carry out the common administrative duties of the two housing entities. Effective July 1, 1998, the functions and employees of the State's Hawaii housing authority, the housing finance and development corporation, and the rental housing trust fund will be transferred to the new housing and community development corporation of Hawaii. Effective July 1, 1998, the rental housing trust fund commission will inform and advise the board of the housing and community development corporation of Hawaii on matters concerning the administration of the rental housing trust fund.

A transition period is provided for this substantial consolidation effort, with full implementation to take effect on July 1, 1998.'

SECTION 2. Act 350, Session Laws of Hawaii 1997, is amended by amending section 21 to read as follows:

“SECTION 21. All officers and employees whose functions are transferred to the housing and community development corporation of Hawaii by this Act shall be transferred with their current functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act. No officer or employee of the state shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act.

In the event that an office or position held by an officer or employee having tenure is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department of [personnel services] human resources development or the governor.

Employees who, prior to this Act were exempt from civil service, and who are transferred to the housing and community development corporation of Hawaii pursuant to this Act shall continue to retain their exempt status after the transfer and shall not suffer any loss of seniority, prior service credit, vacation, sick leave or other employee benefits as a consequence of this Act; provided that subsequent changes in status may be pursuant to applicable civil service and compensation laws. In order to facilitate a smooth transition of activities, temporary positions which are currently exempt from civil service may be temporarily continued as exempt from civil

service. Any exemption under this provision may cease at such time as the current employee terminates, or the position is converted to permanent status, or expires.”

SECTION 3. Act 350, Session Laws of Hawaii 1997, is amended by amending section 29 to read as follows:

- “SECTION 29. This Act shall take effect on July 1, 1998; provided that:
- (1) Section 11 shall take effect on June 30, 1997; [and]
  - (2) Sections [17, 21,] 19, 23, and 27 shall take effect upon approval[.]; and
  - (3) The language in § -73, § -76, § -122, and § -130 of section 2 shall not supersede, but shall incorporate, the amendments made to those sections by Act 2, Session Laws of Hawaii 1998.”

SECTION 4. Chapter 201G, Hawaii Revised Statutes, is amended by adding to part II a new subpart to read as follows:

“B. State Low Income Housing

**§201G-41 Definitions.** The following terms, wherever used or referred to in this subpart, shall have the following respective meanings, unless a different meaning clearly appears from the context:

“Administer” or “administration” means the management, operation, maintenance, and regulation of any housing project, and includes the leasing of any housing project, in whole or in part, from the federal government, management and operation of any housing project under a contract with or permit from the federal government, fixing of rentals, selection of tenants, rental of living quarters and accommodations, rental or leasing of commercial structures and spaces, and providing of recreational and other facilities. It also includes any and all undertakings necessary therefor.

“Veteran” includes any person who served in the military or naval forces of the United States during World War II and who has been discharged or released therefrom under conditions other than dishonorable. The term “veteran” includes Filipino World War II veterans who served honorably in an active duty status under the command of the United States Armed Forces in the Far East (USAFFE), or within the Philippine Army, the Philippine Scouts, or recognized guerilla units. The Filipino World War II veterans must have: served at any time between September 1, 1939, and December 31, 1946; been born in the Philippines; and resided in the Philippines prior to the military service.

**§201G-42 Housing, tenant selection.** Subject to the following limitations and preferences, the corporation shall select tenants upon the basis of those in greatest need for such housing. The corporation may limit the tenants of any housing project to classes of persons when required by federal law or regulation as a term or condition of obtaining assistance from the federal government. Within the priorities established by the corporation recognizing need, veterans with a permanent disability of ten per cent or more as certified by the Veterans Administration, the dependent parents of the veteran and the deceased veteran’s widow shall be given first preference.

**§201G-43 Rentals.** (a) Notwithstanding any provision of law to the contrary, the corporation shall fix the rates of the rentals for dwelling accommodations and other facilities in the housing projects provided for by this subpart, at rates that will produce revenues that will be sufficient to pay all expenses of management, operation, and maintenance, including the cost of insurance, a proportionate share of the

administrative expenses of the corporation to be fixed by it, and the costs of repairs, equipment, and improvements, to the end that the housing projects shall be and always remain self-supporting. The corporation, in its discretion, may fix the rates in such amounts as will produce additional revenues (in addition to the foregoing) sufficient to amortize the cost of the housing project or projects, including equipment, over a period or periods of time that the corporation may deem advisable.

(b) Notwithstanding any provision of law to the contrary, if any such housing project or projects have been specified in any resolution of issuance adopted pursuant to part III, or if the income or revenues from any such project or projects have been pledged by the corporation to the payment of any bonds issued under part III, or if any of the property of any such housing project or projects is security for any such bonds, the corporation shall fix the rates of the rentals for dwelling accommodations and other facilities in the housing project or projects so specified or encumbered at increased rates that will produce the revenues required by subsection (a) and, in addition, those amounts that may be required by part III, by any resolution of issuance adopted under part III and by any bonds or mortgage or other security issued or given under part III.

**§201G-44 Administration of state low income housing projects and programs.** (a) The corporation may construct, develop, and administer property or housing for the purpose of state low income housing projects and programs.

(b) The corporation shall adopt necessary rules in accordance with chapter 91 including the establishment and collection of reasonable fees for administering the projects or programs and to carry out any state program under (a).

**§201G-45 State low income housing, revolving fund.** The director of finance shall establish a revolving fund to be known as “the state low income housing revolving fund”. Notwithstanding any law to the contrary, moneys received by the corporation under or pursuant to this subpart, including refunds, reimbursements, rentals, fees, and charges received from tenants, shall be deposited in the state low income housing revolving fund. Except as otherwise provided in this chapter, the state low income housing revolving fund may be expended by the corporation for any and all of the purposes of this subpart, including, without prejudice to the generality of the foregoing, the expenses of management, operation, and maintenance of state low income housing, including but not limited to the cost of insurance, a proportionate share of the administrative expenses of the corporation, and the cost of repairs, equipment, and improvement; the acquisition, clearance, and improvement of property; the construction and reconstruction of building sites; the construction, reconstruction, repair, remodeling, extension, equipment, and furnishing of any housing project; the development and administration of any housing project; the payment of rentals; and administration and other expenses.

**§201G-46 Investigatory powers.** (a) The corporation may:

- (1) Investigate living, dwelling, and housing conditions and the means and methods of improving those conditions;
- (2) Enter upon any building or property in order to conduct investigations or to make surveys or soundings;
- (3) Conduct examinations and investigations, hear testimony and take proof under oath at public or private hearings on any matter material for its information;
- (4) Issue subpoenas requiring the attendance of witnesses or the production of books and papers, and order the examination of witnesses who are unable to attend before the corporation, are excused from attendance, or by leave of courts as provided by chapter 624, are out of the State; and

- (5) Make available to any government agency charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or unsanitary structures within its jurisdictional limits, its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, safety, or welfare.

(b) Investigations or examinations may be conducted by the corporation or by a committee appointed by it, consisting of one or more members, or by counsel, or by an officer or employee specially authorized by the corporation to conduct it. Any person designated by the corporation to conduct an investigation or examination may administer oaths, take affidavits, and issue subpoenas or orders for the taking of depositions.

**§201G-47 Housing, government aid, political subdivisions.** Any political subdivision may appropriate money for the purposes of meeting any local participation in housing costs or expenses required in order to obtain assistance from the federal government in the development and administration of housing projects and programs under this subpart, or of providing funds for use by the corporation in developing and administering housing projects.

**§201G-48 Additional powers.** The powers conferred upon the corporation by this subpart shall be in addition and supplemental to the powers conferred upon it by any other law, and nothing in this subpart shall be construed as limiting any powers, rights, privileges, or immunities conferred upon it.”

SECTION 5. Section 201G-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

““Trustee” means a national or state bank or trust company located within or outside the State which enters into a trust indenture.

“Trust indenture” means an agreement by and between the corporation and the trustee, which sets forth the duties of the trustee with respect to the bonds, the security therefor, and other provisions as deemed necessary or convenient by the corporation to secure the bonds.”

SECTION 6. Section 201G-1, Hawaii Revised Statutes, is amended by amending the definitions of “housing project” or “project”, “mortgage holder”, and “mortgage lender” to read as follows:

““Housing project” or “project” includes all real and personal property, buildings and improvements, commercial spaces, lands for farming and gardening, and community facilities acquired or constructed or to be acquired or constructed, and all tangible or intangible assets held or used in connection with the housing project.

The term “housing project” or “project” may also be applied to the planning of the buildings and improvements, the acquisition of property[,], by purchase, lease, or otherwise, the demolition of existing structures, the construction, reconstruction, alteration, and repair of the improvements, and all other work in connection therewith.

“Mortgage holder” includes the United States Department of Housing and Urban Development, Federal Housing Administration, the United States Department of Agriculture [-Rural Development], or other federal or state agency engaged in housing activity, Administrator of Veterans Affairs, Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan

Mortgage Corporation, private mortgage lender, private mortgage insurer, and their successors, grantees, and assigns.

“Mortgage lender” means any bank [or], trust company, savings bank, national banking association, savings and loan association [maintaining an office in the State, any insurance company authorized to transact business in the State, or any mortgagee approved by the Federal Housing Administration and maintaining an office in the State.], building and loan association, mortgage banker, credit union, insurance company, or any other financial institution, or a holding company for any of the foregoing, which:

- (1) Is authorized to do business in the State;
- (2) Customarily provides service or otherwise aids in the financing of mortgages on single-family or multifamily residential property; and
- (3) Is a financial institution whose accounts are federally insured or is an institution that is an approved mortgagee for the Federal Housing Administration, an approved lender for the Department of Veterans Affairs or the United States Department of Agriculture, or an approved mortgage loan servicer for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.”

SECTION 7. Section 201G-3, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) There is created a board consisting of nine members, of whom six shall be public members appointed by the governor as provided in section 26-34. Public members shall be appointed from each of the counties of Honolulu, Hawaii, Maui, and Kauai. One public member shall be the chairperson of the rental housing trust fund advisory commission. The public members of the board shall serve four-year staggered terms; provided that the initial appointments shall be as follows: two members to be appointed for four years; two members to be appointed for three years; and [two members] one member to be appointed for two years. The chairperson of the rental housing trust fund advisory commission shall serve a concurrent term on the board. The director of business, economic development, and tourism and the director of human services, or their designated representatives, and a representative of the governor’s office, shall be ex officio voting members. The corporation shall be headed by the board.

(b) The board of directors shall select a chairperson and vice-chairperson from among its members. The director of [finance] business, economic development, and tourism or the director of human services shall be ineligible to serve as [chairpersons] chairperson of the board.”

SECTION 8. Section 201G-10, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) For the purpose of aiding and cooperating in the planning, construction, and operation of housing projects located within their respective territorial boundaries, the state or county government, upon those terms, with or without consideration, as it determines, may:

- (1) Dedicate, grant, sell, convey, or lease any of its property, or grant easements, licenses, or any other rights or privileges therein to the corporation or to the federal government;
- (2) To the extent that it is within the scope of each of their respective functions:

- (A) Cause the services customarily provided by each of them to be rendered for the benefit of housing projects and the occupants thereof;
  - (B) Provide and maintain parks and sewage, water, lights, and other facilities adjacent to or in connection with housing projects;
  - (C) Open, close, pave, install, or change the grade of streets, roads, roadways, alleys, sidewalks, or other related facilities; and
  - (D) Change the map of a political subdivision or plan, replan, zone, or rezone any part of a political subdivision;
- (3) Enter into agreements with the corporation with respect to the exercise of their powers relating to the repair, closing, or demolition of unsafe, unsanitary, or unfit dwellings;
  - (4) Employ, notwithstanding any other law as to what constitutes legal investments, any available funds belonging to them or within their control, including funds derived from the sale or furnishing of property or facilities to the corporation, in the purchase of the bonds or other obligations of the corporation to the extent provided by section [201G-167;] 201G-161; and exercise all the rights of any holder of the bonds or other obligations;
  - (5) Do any and all things necessary or convenient to aid and cooperate in the planning, undertaking, and construction of such housing projects; and
  - (6) Enter into contracts with the corporation or the federal government for any period agreeing to exercise any of the powers conferred hereby or to take any other action in aid of such housing projects.

In connection with the exercise of this power, any political subdivision may incur the entire expense of any such public improvements located within its territorial boundaries without assessment against abutting property owners.

For the purpose of aiding and cooperating in the planning, construction, and operation of housing projects, the department of land and natural resources, the Hawaiian homes commission, and any other agency of the State having power to manage or dispose of its public lands, may, with the approval of the governor and with or without consideration, grant, sell, convey, or lease for any period, any parts of such public lands, without limit as to area, to the corporation or to the federal government.

Any law to the contrary notwithstanding, any gift, grant, sale, conveyance, lease, or agreement provided for in this section may be made by the state or county government without appraisal, public notice, advertisement, or public bidding.

If at any time title to, or possession of, any housing project is held by any government authorized by law to engage in the development or administration of low-rent housing or slum clearance projects, any agreement made under this chapter relating to the project shall inure to the benefit of and may be enforced by that government.

Insofar as this subsection is inconsistent with the provisions of any other law, this subsection shall be controlling.”

SECTION 9. Section 201G-13, Hawaii Revised Statutes, is amended to read as follows:

“**[[§201G-13]] Development of property; additional powers.** Notwithstanding any provision to the contrary, whenever the bids submitted for any development or rehabilitation project authorized pursuant to [part II.A, II.F, and II.G and chapter 359] subparts A, B, G, and H of part II exceed the amount of funds available for that project, the corporation, with the approval of the governor, may disregard the



bids and enter into an agreement to carry out the project, or undertake the project or participate in the project under the agreement, without regard to chapter 103D; provided that the total cost of the agreement and the corporation's participation, if any, shall not exceed the amount of funds available for the project; provided further that if the agreement is with a nonbidder, the scope of the project under agreement shall remain the same as that for which bids were originally requested."

SECTION 10. Section 201G-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The corporation may carry out federal programs designated to be carried out by a [housing finance or housing development entity.] housing finance entity, housing development entity, public housing agency, or entity designated by the corporation."

SECTION 11. Chapter 201G, Hawaii Revised Statutes, is amended by amending the title of subpart A of part II to read:

"A. FEDERAL LOW INCOME HOUSING"

SECTION 12. Chapter 201G, Hawaii Revised Statutes, is amended by redesignating subparts B, C, D, E, F, and G of part II to read as follows:

"[B.] C. PUBLIC HOUSING; EVICTIONS  
[C.] D. PUBLIC HOUSING; LIENS  
[D.] E. PUBLIC HOUSING; CORPORATION-COUNTY COOPERATION  
[E.] F. HOUSING DEVELOPMENT PROGRAMS  
[F.] G. TEACHERS HOUSING  
[G.] H. HOUSING FOR ELDERS"

SECTION 13. Section 201G-51, Hawaii Revised Statutes, is amended by amending the definition of "public housing project" to read as follows:

"“Public housing project” means a housing project directly controlled, owned, developed, or managed by the corporation pursuant to [part II.A and chapter 359.] subparts A, B, and H."

SECTION 14. Section 201G-52, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§201G-52]]~~ **Termination and eviction.** Except as hereinafter provided, the corporation may terminate any lease, rental agreement, permit, or license covering the use and occupation of any dwelling unit or other premises located within a public housing project and evict from any premises any tenant, licensee, or other occupant for any of the following reasons:

- (1) Failure to pay rent when due;
- (2) Violation of any of the provisions of a lease rental agreement, permit, or license;
- (3) Violation of any of the rules of the corporation;
- (4) Failure to maintain the dwelling unit in a clean, sanitary, and habitable condition; or
- (5) The existence of any other circumstances giving rise to an immediate right to possession by the corporation."

SECTION 15. Section 201G-57, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) Upon review of the record the court may affirm the decision of the corporation or remand the case with instructions for further proceedings, or it may reverse or modify the decision and order if the substantial rights of the petitioners may have been prejudiced because the administrative findings, conclusions, decisions, or orders are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority or jurisdiction of the [agency;] corporation;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;
- (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (6) Arbitrary, or capricious, or characterized by abuse of discretion or clearly unwarranted exercise of discretion.”

SECTION 16. Section 201G-71, Hawaii Revised Statutes, is amended by amending the definition of “housing project” to read as follows:

““Housing project” means and includes any housing project or projects owned, managed, administered, or operated by the corporation under or pursuant to [subpart] subparts A and B or under or pursuant to any other law[, including chapter 359].”

SECTION 17. Section 201G-92, Hawaii Revised Statutes, is amended to read as follows:

“**[§201G-92] Facilities and services by counties to corporation and tenants.** Each county within which the corporation may own, operate, or administer any housing project or projects under any law or laws, [except chapter 359,] and to which, or for whose benefit, the corporation has made (by payment to the [department of taxation]) county or may hereafter make, gifts or donations, including any payment in lieu of taxes, shall, upon request of the corporation, provide and furnish to the corporation, in regard to every such housing project or projects within the county, and to the tenants and other occupants of the same, free of charge and without condition or other requirement, all the facilities, services, and privileges as it provides or furnishes, with or without charge or other consideration, to any person or persons whomsoever, including, without limitation to the generality of the foregoing, police protection, fire protection, street lighting, or paving maintenance, traffic control, garbage or trash collection and disposal, use of streets or highways, use of county incinerators or garbage dumps, storm drainage, and sewage disposal. In addition, each county, upon request of the corporation and free of charge and without condition or other requirement, shall open or close, but not construct or reconstruct, streets, roads, highways, alleys, or other facilities within any housing project or projects within the county. Nothing in this section shall be construed to restrict or limit the power of the corporation to agree to pay, or to pay, for any and all of the facilities, services, and privileges, if in its discretion it deems such payment advisable.”

SECTION 18. Section 201G-93, Hawaii Revised Statutes, is amended to read as follows:

“**[§201G-93]** **Construction of additional powers.** Sections 201G-91 and 201G-92 shall not be construed as abrogating, limiting, or modifying [part II.A, including amendments to part II.A, or chapter 359,] subparts A, B, and H, including amendments thereto.”

SECTION 19. Section 201G-112, Hawaii Revised Statutes, is amended by amending the definition of “qualified resident” to read as follows:

““Qualified resident” means a person who:

- (1) Is a citizen of the United States or a resident alien;
- (2) Is at least eighteen years of age;
- (3) Is domiciled in the State and shall physically reside in the dwelling unit purchased or rented under this chapter;
- (4) In the case of the purchase of real property in fee simple or leasehold, has a gross income sufficient to qualify for the loan to finance the purchase; or in the case of a rental, demonstrates an ability to pay rent as determined by the corporation and meets any additional criteria established by the corporation for the respective rental housing development for which the applicant is applying; and
- (5) Meets the following qualifications:
  - (A) Is a person who either oneself or together with spouse or household member, does not own [more than one per cent] a majority interest in fee simple or leasehold lands suitable for dwelling purposes or [more than one per cent] a majority interest in lands under any trust agreement or other fiduciary arrangement in which another person holds the legal title to the land; and
  - (B) Is a person whose spouse or household member does not own [more than one per cent] a majority interest in fee simple or leasehold lands suitable for dwelling purposes or more than a majority interest in lands under any trust agreement or other fiduciary arrangement in which another person holds the legal title to the land, except when husband and wife are living apart under a decree of separation from bed and board issued by the family court pursuant to section 580-71;

provided that for purchasers of market-priced units in an economically integrated housing project, the term “qualified resident” means a person who is a citizen of the United States or a resident alien; is domiciled in the State and shall physically reside in the dwelling unit purchased; is at least eighteen years of age; and meets other qualifications as determined by the developer.”

SECTION 20. Section 201G-112, Hawaii Revised Statutes, is amended by deleting the definitions “housing” or “housing project”, “mortgage holder”, and “mortgage lender”.

[““Housing” or “housing project” includes all real and personal property, buildings and improvements, commercial space, lands for farming and gardening, community facilities acquired or constructed or to be acquired or constructed, and all tangible or intangible assets held or used in connection with the housing project.

“Mortgage holder” includes the United States Department of Housing and Urban Development, Federal Housing Administration, the United States Department of Agriculture—Rural Development, or other federal or state agency engaged in housing activity, Administrator of Veterans Affairs, Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, private mortgage lender, private mortgage insurer, and their successors, grantees, and assigns.

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“Mortgage lender” means any bank or trust company, savings bank, national banking association, savings and loan association maintaining an office in the State, any insurance company authorized to transact business in the State, or any mortgagee approved by the Federal Housing Administration and maintaining an office in the State.”]

SECTION 21. Section 201G-113, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Upon authorization by the legislature, the corporation shall cause the State to issue general obligation bonds to finance:

- (1) Land acquisition;
- (2) The development and improvement of land;
- (3) The construction of dwelling units;
- (4) The purchase, lease, or rental of land and dwelling units by qualified residents, nonprofit organizations, or government agencies under this chapter;
- (5) Payment of any services contracted for under this chapter, including profit or recompense paid to partners, and including community information and advocacy services deemed necessary by the corporation to provide for citizen participation in the development of housing projects, the implementation of this chapter, and the staffing of any citizen advisory committee the corporation may establish;
- (6) The cost of repurchase of units under section [201G-128;] 201G-127;
- (7) Loans for the rehabilitation and renovation of existing housing; and
- (8) Any other moneys required to accomplish the purposes of this chapter.”

SECTION 22. Section 201G-116, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In accordance with section 237-29, the corporation may approve and certify for exemption from general excise taxes any qualified person or firm involved with a newly constructed, or moderately or substantially rehabilitated project:

- (1) Developed under this subpart;
- (2) Developed under a government assistance program approved by the corporation, including but not limited to, the United States Department of Agriculture [- Rural Development] 502 program and Federal Housing Administration 235 program; or
- (3) Developed under the sponsorship of a private nonprofit corporation providing home rehabilitation or new homes for qualified families in need of decent, low-cost housing.”

SECTION 23. Section 201G-118, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The corporation may develop, on behalf of the State or with an eligible developer, or may assist under a government assistance program in the development of, housing projects which shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of units thereon; provided that:

- (1) The corporation finds the project is consistent with the purpose and intent of this chapter, and meets minimum requirements of health and safety;
- (2) The development of the proposed project does not contravene any safety standards [or], tariffs, or rates and fees approved by the public utilities commission for public utilities[;] or the various boards of water supply authorized under chapter 54; and
- (3) The legislative body of the county in which the project is to be situated shall have approved the project.
  - (A) The legislative body shall approve or disapprove the project by resolution within forty-five days after the corporation has submitted the preliminary plans and specifications for the project to the legislative body. If on the forty-sixth day a project is not disapproved, it shall be deemed approved by the legislative body;
  - (B) No action shall be prosecuted or maintained against any county, its officials, or employees on account of actions taken by them in reviewing, approving, or disapproving the plans and specifications; and
  - (C) The final plans and specifications for the project shall be deemed approved by the legislative body if the final plans and specifications do not substantially deviate from the preliminary plans and specifications. The final plans and specifications for the project shall constitute the zoning, building, construction, and subdivision standards for that project. For purposes of sections 501-85 and 502-17, the executive director of the corporation, or the responsible county official may certify maps and plans of lands connected with the project as having complied with applicable laws and ordinances relating to consolidation and subdivision of lands, and the maps and plans shall be accepted for registration or recordation by the land court and registrar; and
- (4) The land use commission shall approve or disapprove a boundary change within forty-five days after the corporation has submitted a petition to the commission as provided in section 205-4. If on the forty-sixth day the petition is not disapproved, it shall be deemed approved by the commission.’’

SECTION 24. Section 201G-128, Hawaii Revised Statutes, is amended to read as follows:

**“[[§201G-128]] Exception of current owners in corporation projects.**

The corporation may allow a person who is a current owner of a multifamily dwelling unit in a project sponsored by the corporation to apply for the purchase of a larger dwelling unit in a project sponsored by the corporation if the applicant’s family size exceeds the permissible [maximum] family size for the applicant’s current dwelling unit, as determined by [the corporation.] prevailing county building or housing codes. The applicant shall be required to sell the applicant’s current dwelling unit back to the corporation. Notwithstanding any law to the contrary, any applicant, as it pertains to for-sale housing, shall be a “qualified resident” who:

- (1) Is a citizen of the United States or a resident alien;
- (2) Is at least eighteen years of age;
- (3) Is domiciled in the State and shall physically reside in the dwelling unit purchased under this chapter;

- (4) In the case of purchase of real property in fee simple or leasehold, has a gross income sufficient to qualify for the loan to finance the purchase; and
- (5) Except for the applicant's current residence, meets the following qualifications:
  - (A) Is a person who either oneself or together with spouse, does not own a majority interest in fee simple or leasehold lands suitable for dwelling purposes, or a majority interest in lands under any trust agreement or other fiduciary arrangement in which another person holds the legal title to such land; and
  - (B) Is a person whose spouse does not own a majority interest in fee simple or leasehold lands suitable for dwelling purposes or a majority interest in lands under any trust agreement or other fiduciary arrangement in which another person holds the legal title to such land, except when husband and wife are living apart under a decree of separation from bed and board issued by the family court pursuant to section 580-71."

SECTION 25. Section 201G-133, Hawaii Revised Statutes, is amended to read as follows:

“**[§201G-133]** **Rate of wages for laborers and mechanics.** The corporation shall require an eligible bidder or eligible developer of a housing project developed under this [chapter] subpart to comply with the requirements of section 104-2 for those laborers and mechanics hired to work on that housing project; provided that this section shall not apply to a housing project developed under this chapter if the entire cost of the project is less than \$500,000 and the eligible bidder or eligible developer is a private nonprofit corporation.”

SECTION 26. Section 201G-143, Hawaii Revised Statutes, is amended to read as follows:

“**[§201G-143]** **Annual statements.** The corporation shall annually forward to the director of [human services] business, economic development, and tourism and the director of finance a full, detailed description and financial statement of the planning, construction, repair, maintenance, and operation of teacher housing.”

SECTION 27. Section 201G-151, Hawaii Revised Statutes, is amended by deleting the definition of “housing project” or “project”.

[““Housing project” or “project” shall include all real and personal property, buildings, and improvements, corporations, lands for gardening or farming, and community facilities administered by the corporation and providing safe and sanitary dwelling accommodations for residents. The terms shall also include all other real and personal property and all tangible or intangible assets held or used in connection with a housing project administered under this subpart.”]

SECTION 28. Section 201G-152, Hawaii Revised Statutes, is amended to read as follows:

“**[§201G-152]** **Resident selection; dwelling accommodations; rentals.** In the administration of housing projects[,] for the elderly, the corporation shall observe the following with regard to resident selection, dwelling accommodations, and rentals:

- (1) Except as hereinafter provided, it shall accept only elders as residents in the housing projects;
- (2) It may accept as residents in any housing unit one or more persons, related or unrelated by marriage. It may also accept as a resident in any dwelling accommodation or in any project, in the case of illness or other disability of an elder who is a resident in the dwelling accommodation or in the project, a person designated by the elder as the elder's companion and who is approved by the corporation, although the person is not an elder; provided that the person shall cease to be a resident therein upon the recovery of, or removal from the project of, the elder;
- (3) It may rent or lease to an elder a dwelling accommodation consisting of any number of rooms as the corporation deems necessary or advisable to provide safe and sanitary accommodations to the proposed resident or residents thereof without overcrowding; and
- (4) Notwithstanding that the elder has no written rental agreement or that it has expired, so long as the elder continues to tender the usual rent to the corporation or proceeds to tender receipts for rent lawfully withheld, no action or proceeding to recover possession of the dwelling unit may be maintained against the elder, nor shall the corporation otherwise cause the elder to quit the dwelling unit involuntarily, demand an increase in rent from the elder, or decrease the services to which the elder has been entitled during hospitalization of the elder due to illness or other disability."

SECTION 29. Section 201G-161, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The corporation may issue such types of bonds as it may determine, including, without limitation, bonds payable from and secured, in whole or in part, by:

- (1) Income and revenues derived from the housing project or projects financed from the proceeds of bonds;
- (2) Receipts derived from any grant from the federal government made in aid of a housing project or projects financed from the proceeds of bonds;
- (3) Income and revenues derived from a particular designated housing project or projects whether or not financed, in whole or in part, from the proceeds of bonds;
- (4) Receipts derived from any payment for “eligible loans”, “eligible improvement loans”, or “eligible project loans”, as such terms are defined in subpart B [of part III], or any other agreement or agreements entered into for a “housing loan program”, as such term is defined in subpart B or E [of part III], or any other loan program administered by the corporation and financed from the proceeds of bonds;
- (5) Receipts derived from loans to mortgage lenders or from the payment on account of principal of or interest on loans purchased from mortgage lenders, as such terms are defined in subpart B [of part III] which loans to mortgage lenders or loans purchased are financed from the proceeds of bonds;
- (6) Moneys in any funds or accounts established in connection with the issuance of bonds, and any earnings thereon;
- (7) Proceeds derived from any insurance;
- (8) Income and revenues of the corporation generally; or

(9) Any combination of the above.

The terms “income and revenues” shall be deemed to include income and revenues derived from the sale of land or from both land and improvements thereon serviced from infrastructure financed from the proceeds of bonds as permitted by this subpart. The provisions of this subsection are in addition and supplemental to part III of chapter 39.’’

SECTION 30. Section 201G-164, Hawaii Revised Statutes, is amended to read as follows:

**“[[§201G-164]] Bonds; interest rate, price, and sale.** (a) The bonds shall bear interest at rates payable at times [as] that the corporation, with the approval of the governor, may determine except for deeply discounted bonds that are subject to redemption or retirement at their accreted value; provided that the discounted value of the bonds shall not exceed ten per cent of any issue; and provided further that no bonds may be issued without the approval of the director of finance and the governor. Notwithstanding any other law to the contrary, the corporation may, subject to the approval of the director of finance and the governor, issue bonds pursuant to section [[201G-162]], in which the discounted value of the bonds exceeds ten per cent of the issue.

(b) The corporation may include the costs of undertaking and maintaining any housing project or projects or loan program for which the bonds are issued in determining the principal amount of bonds to be issued. In determining the cost of undertaking and maintaining the housing projects, the corporation may include the cost of studies and surveys; insurance premiums; underwriting fees; financial consultant, legal, accounting, and other services incurred; reserve account, trustee, custodian, and rating agency fees; and interest on the bonds for a period [not to exceed one year beyond the estimated completion of any housing project or projects,] determined by the corporation, or the estimated expenditure of borrowed funds[, or] for any loan program for which the bonds are issued.’’

SECTION 31. Section 201G-165, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

**“(c)** The trustee shall also be authorized by the corporation to hold and administer any housing project bond special funds established pursuant to section 201G-170, and to receive and receipt for, hold, and administer the revenues derived by the corporation from any housing project or projects or loan program for which the bonds are issued or the projects or loan programs pledged to the payment of the bonds, and to apply the revenues to the payment of the cost of administering, operating, and maintaining the housing project or projects or loan program, to pay the principal of and the interest on the bonds, to the establishment of reserves, and to other purposes as may be authorized in the proceedings providing for the issuance of the bonds.’’

SECTION 32. Section 201G-167, Hawaii Revised Statutes, is amended to read as follows:

**“[[§201G-167]] Investment of reserves, etc.** The corporation may invest any funds held in reserves or sinking funds or any funds not required for immediate disbursement, including the proceeds of bonds, in property or securities in which the director of finance may legally invest, as provided in section 36-21, except that funds held outside the state treasury may be invested for terms not to exceed thirty-five years. No provisions with respect to the acquisition, operation, or disposition of



property by other public bodies shall be applicable to the corporation unless the legislature shall specifically so state.”

SECTION 33. Section 201G-170, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is created a housing finance revolving fund to be administered by the corporation. Notwithstanding sections 36-21 and 201G-411, the proceeds in the fund shall be used for long-term and other special financings of the corporation and for the necessary expenses in administering this [chapter.] part.”

SECTION 34. Section 201G-171, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§201G-171]]~~ **Rate of wages for laborers and mechanics.** The corporation shall require an eligible bidder or eligible developer of a housing project developed under this [chapter] subpart to comply with the requirements of section 104-2 for those laborers and mechanics hired to work on that housing project; provided that this section shall not apply to a housing project developed under this chapter if the entire cost of the project is less than \$500,000 and the eligible bidder or eligible developer is a private nonprofit corporation.”

SECTION 35. Section 201G-181, Hawaii Revised Statutes, is amended by deleting the definition of “mortgage lender”.

[““Mortgage lender” means any bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker, credit union, insurance company, or any other financial institution, or a holding company for any of the foregoing, which:

- (1) Is authorized to do business in the State;
- (2) Customarily provides service or otherwise aids in the financing of mortgages on single family or multifamily residential property; and
- (3) Is a financial institution whose accounts are federally insured or is an institution which is an approved mortgagee for the Federal Housing Administration or is an approved lender for the Veterans Administration or the United States Department of Agriculture—Rural Development or is an approved mortgage loan [servicer for] the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.”]

SECTION 36. Section 201G-241, Hawaii Revised Statutes, is amended by amending the definition of “housing loan programs” to read as follows:

““Housing loan programs” include all or any part of the loan programs authorized in [sections 201G-242 and 201G-243.] section 201G-242.”

SECTION 37. Section 201G-241, Hawaii Revised Statutes, is amended by deleting the definitions of “mortgage lender”, “securities”, “trustee”, and “trust indenture”.

[““Mortgage lender” means any bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker, credit union, insurance company, or any other financial institution, or a holding company for any of the foregoing, which:

- (1) Is authorized to do business in the State;

- (2) Customarily provides service or otherwise aids in the financing of mortgages on single-family or multifamily residential property; and
- (3) Is a financial institution whose accounts are federally insured or is an institution which is an approved mortgagee for the Federal Housing Administration or is an approved lender for the Veterans Administration or the United States Department of Agriculture—Rural Economic Community Development or is an approved mortgage loan servicer for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

“Securities” as used in this subpart means revenue bonds, participation certificates, pass-through certificates, mortgage-backed obligations, and other obligations of the corporation issued to finance any of the housing loan programs under this subpart.

“Trustee” means a national or state bank or trust company within or without the State which enters into a trust indenture.

“Trust indenture” means an agreement by and between the corporation and the trustee, which sets forth the duties of the trustee with respect to the securities, the security therefor, and other provisions as deemed necessary or convenient by the corporation to secure the securities.”]

SECTION 38. Section 201G-244, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Subject to any agreements with the holders of its [securities,] bonds, the corporation may renegotiate, refinance, or foreclose any loan in default; and may commence any action to protect or enforce any right conferred upon it by any law, or as provided in any mortgage, insurance policy, contract, or other agreement; and may bid for and purchase the property secured by the loan at any foreclosure or other sale; or acquire, or take possession of the property secured by the loan and may operate, manage, lease, dispose of, or otherwise deal with the property securing the loan.”

SECTION 39. Section 201G-311, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

- “(d) To be eligible for loans under this section, a qualified borrower shall be:
- (1) A citizen of the United States or a resident alien;
  - (2) Qualified under the rules adopted by the corporation; and
  - (3) Willing to comply with the rules as may be adopted by the [director of finance.] corporation.

The corporation may secure the services of a private lender to process all applications and determine who is a qualified borrower under this chapter.”

SECTION 40. Section 201G-391, Hawaii Revised Statutes, is amended to read as follows:

“[[~~§201G-391~~]] **State sales housing**. Notwithstanding [sections 359-8, 359-9, 359-39, or] any [other] law to the contrary, but subject to any resolution of issuance under [chapter 359, part IV,] subpart A, the corporation may permit any member of a tenant family of a housing project administered under [chapter 359 or part II.A, or II.G,] subpart A, B, or H of part II, or any individual meeting the income standards under section 221(d)(3) of the National Housing Act to enter into a contract for the acquisition of a dwelling unit and lot or the acquisition of a dwelling unit and the lease of its lot, the lease to conform to chapter 171 with the exception

that the lease shall not require bid, auction, or negotiation, in any project under [part II.A and II.G, and chapter 359] subparts A, B, and H of part II which is suitable for sale and for occupancy by such purchaser or a member or members of the purchaser's family, upon the following terms:

- (1) The purchaser shall pay at least:
  - (A) A pro rata share cost of any services furnished the purchaser by the corporation, including but not limited to administration, maintenance, repairs, utilities, insurance, provision of reserves, and other expenses;
  - (B) Taxes on the purchaser's dwelling unit; and
  - (C) Monthly payments of interest and principal sufficient to amortize a sales price, equal to the greater of the unamortized debt or the appraised value (at the time such purchase contract is entered into) of the dwelling unit, in not more than forty years;
- (2) The interest rate shall be fixed at not less than the average interest cost of loans outstanding on the project, except that in the case of a project on which bonds are not outstanding the interest rate shall be fixed at not less than the going rate applicable to that project;
- (3) The principal payments shall be not less than one-half of one per cent a year of the sales price during the first five years after purchase, one per cent a year during the next five years, one and one-half per cent a year during the third five years, and thereafter not less than the principal payments resulting from a level debt service of interest and principal over the balance of the payment period; and
- (4) If at any time:
  - (A) A purchaser fails to carry out the purchaser's contract with the corporation and if no member of the purchaser's family who resides in the dwelling assumes such contract; or
  - (B) The purchaser or a member of the purchaser's family who assumes the contract does not reside in the dwelling, the corporation shall have an option to acquire the purchaser's interest under the contract upon payment to the purchaser or the purchaser's estate of an amount equal to the purchaser's aggregate principal payments plus the value to the corporation of any improvements made by the purchaser, less an amount equal to two and one-half per cent of the sales price."

SECTION 41. Section 201G-411, Hawaii Revised Statutes, is amended to read as follows:

“[[§201G-411]] **Dwelling unit revolving fund.** There is created a dwelling unit revolving fund. The funds appropriated for the purpose of the dwelling unit revolving fund and all moneys received or collected by the corporation for the purpose of the revolving fund shall be deposited in the revolving fund. The proceeds in the revolving fund shall be used to reimburse the general fund to pay the interest on general obligation bonds issued for the purposes of the revolving fund, for the necessary expenses in administering [this part,] subpart F, part II, and for carrying out the purposes of [this part,] subpart F, part II, including but not limited to the expansion of community facilities constructed in conjunction with housing projects, and supplementing building costs, federal guarantees required for operational losses, and all things required by any federal agency in the construction and receipt of federal funds for housing projects.”

SECTION 42. Section 201G-433, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established within the corporation the rental housing trust fund advisory commission consisting of seven members, five of whom shall be public members and appointed pursuant to section 26-34. The public members of the advisory commission shall serve four-year staggered terms[.]; provided that the initial appointments shall be as follows: two members to be appointed for four years; two members to be appointed for three years; and one member to be appointed for two years. As part of this appointment process, an appropriate organization from each of the categories of organizations enumerated below shall submit a list of three public member nominees to the governor. The governor shall select and appoint one public member from each list.

The public members shall be representative of the following categories of organizations:

- (1) Real estate brokers and rental property managers;
- (2) Tenants and renters advocacy organizations;
- (3) Nonprofit housing developers and low income service providers;
- (4) Mortgage lenders; and
- (5) Architects and planners.

A county government official who shall be appointed for a two-year term on a rotating basis among counties and the [governor’s special assistant for housing or the] governor’s designated representative shall be ex officio voting members of the advisory commission.”

SECTION 43. Section 201G-441, Hawaii Revised Statutes, is amended to read as follows:

“**[§201G-441] Expenditures of revolving funds under the corporation exempt from appropriation and allotment.** Except as to administrative expenditures, and except as otherwise provided by law, expenditures from these revolving funds administered by the corporation under [part III] subpart I, N, O, P, or Q[, sections] or section 201G-170, 201G-223, [201G-402,] 201G-401, 201G-411, 201G-421, or 516-44 may be made by the corporation without appropriation or allotment of the legislature; provided that no expenditure shall be made from and no obligation shall be incurred against any revolving fund in excess of the amount standing to the credit of the fund or for any purpose for which the fund may not lawfully be expended. Nothing in sections 37-31 to 37-41 shall require the proceeds of the revolving funds identified in [part] subpart I, N, O, P, or Q[,] or section 201G-170, 201G-223, 201G-401, 201G-411, 201G-421, or 516-44 to be reappropriated annually.”

SECTION 44. Section 201G-451, Hawaii Revised Statutes, is amended by amending the definition of “homeless” to read as follows:

““Homeless” means:

- (1) An individual or family who lacks a fixed, regular, and adequate nighttime residence; and
- (2) An individual or family who has a primary nighttime residence that is:
  - (A) A supervised publicly or privately operated shelter designed to provide temporary living accommodations;
  - (B) An institution that provides temporary residence for individuals intended to be institutionalized; or

- (C) A public or private place not designed for or ordinarily used as sleeping accommodations for human beings.

This term does not include any individual imprisoned or otherwise detained under an act of Congress or a state law.”

SECTION 45. All moneys in the housing authority revolving fund established under section 359-13, Hawaii Revised Statutes, as of June 30, 1998, shall be transferred to the state low income housing revolving fund created in section 4 of this Act.

The jurisdiction, functions, powers, duties, and authority heretofore exercised by the Hawaii housing authority shall be transferred to and conferred upon the housing and community development corporation of Hawaii and shall be performed and enforced in the same manner as previously authorized, entitled, or obligated except as otherwise authorized, directed, or instructed by this Act.

The housing and community development corporation of Hawaii shall succeed to all of the rights and powers previously exercised, and all of the duties and obligations incurred by the Hawaii housing authority in the exercise of the functions, powers, duties, and authority transferred, whether such functions, powers, duties, and authority are mentioned in or granted by any law, contract, or other document.

All rules, policies, procedures, guidelines, and other material adopted or developed by the Hawaii housing authority to implement provisions of the Hawaii Revised Statutes, the substance of which are reenacted or made applicable to the housing and community development corporation of Hawaii by this Act, shall remain in full force and effect until amended or repealed by the executive director of the housing and community development corporation of Hawaii pursuant to chapter 91, Hawaii Revised Statutes.

All deeds, leases, contracts, loans, agreements, permits, or other documents executed or entered into by or on behalf of the Hawaii housing authority pursuant to the provisions of the Hawaii Revised Statutes, the substance of which are reenacted or made applicable to the housing and community development corporation of Hawaii by this Act, shall remain in full force and effect.

It is the intent of this Act not to impair the obligation of the State or any agency thereof to the holders of any bond issued by the State or by any state agency, and to the extent, and only to the extent, necessary to effectuate this intent, the governor is authorized and empowered to modify the strict provisions in this Act, but shall promptly report any such modifications with the reasons therefor to the legislature at its next session thereafter for review by the legislature. Nothing contained in this Act shall affect the validity or the terms and provisions of any bond heretofore issued by the State, or the Hawaii housing authority under prior law.

SECTION 46. The revisor of statutes shall substitute all references made to “chapter 359” or any specific section or part of chapter 359, as the case may be, in sections 514A-14.5, 514A-108, and 516-31, Hawaii Revised Statutes, with the corresponding chapter, part, or section number of the new chapter enacted by Act 350, Session Laws of Hawaii 1997, or amended by this Act as appropriate.

SECTION 47. Effective July 1, 1998, parts I, II, IV, and IX of chapter 359, Hawaii Revised Statutes, are repealed.

SECTION 48. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 49. This Act shall take effect on July 1, 1998; provided that section 3 of this Act shall take effect retroactive to July 3, 1997.

(Approved July 17, 1998.)

ACT 213

S.B. NO. 3043

A Bill for an Act Relating to Government Computer Systems Which Are Not Year 2000 Compliant.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
GOVERNMENT COMPUTER SYSTEMS AND YEAR 2000  
COMPLIANCE**

§ -1 **Definitions.** As used in this chapter:

“Board” means any agency, board, commission, authority, or committee of the State or its political subdivisions that is created by constitution, statute, rule, or executive order to have supervision, control, jurisdiction, or advisory power over specific matters.

“Government computer system” includes any computer or other information technology system owned or operated by or on behalf of the State, its political subdivisions, or a board.

“Government employee” includes an officer or employee of the State, its political subdivisions, or a board, including a person acting on behalf of a board in an official capacity, temporarily or permanently, whether with or without compensation.

“Year 2000 compliant” means, with respect to a government computer system, that the system accurately processes date and time data (including, but not limited to, calculating, comparing, projecting, and sequencing) from, into, and between the twentieth and twenty-first centuries and the years 1999 and 2000, and leap year calculations.

§ -2 **Immunity against suits.** No action, including, without limitation, any action for declaratory or injunctive relief, may be brought against any person including, but not limited to, the State, its political subdivisions, a board, or a government employee, arising out of or based upon any failure of or error produced, calculated, or generated by a government computer system, which failure or error occurred prior to June 30, 1999 as a result of the system’s not being year 2000 compliant, regardless of the cause for the system’s not being year 2000 compliant.

§ -3 **Remedial measures.** Nothing in this chapter shall be deemed to prevent the State, its political subdivisions, a board, or a government employee, from taking steps to remedy any failure of or error produced, calculated, or generated by a government computer system as a result of the system’s not being year 2000 compliant, once the failure or error is verified.

§ -4 **Exceptions.** Nothing in this chapter shall be deemed to provide immunity or release from liability to any person who:

- (1) Deliberately tampers with a government computer system for the purpose of preventing it from being year 2000 compliant; or
- (2) Receives and fails to immediately return a benefit which the person is not legally entitled to arising out of or based upon any failure of or error produced, calculated, or generated by a government computer system as a result of the system's not being year 2000 compliant."

SECTION 2. Section 662-15, Hawaii Revised Statutes, is amended to read as follows:

**“§662-15 Exceptions.** This chapter shall not apply to:

- (1) Any claim based upon an act or omission of an employee of the State, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation is valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a state officer or employee, whether or not the discretion involved has been abused;
- (2) Any claim arising in respect of the assessment or collection of any tax, or the detention of any goods or merchandise by law enforcement officers;
- (3) Any claim for which a remedy is provided elsewhere in the laws of the State;
- (4) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights;
- (5) Any claim arising out of the combatant activities of the Hawaii national guard and Hawaii state defense force during time of war, or during the times the Hawaii national guard is engaged in federal service pursuant to sections 316, 502, 503, 504, 505, or 709 of Title 32 of the United States Code;
- (6) Any claim arising in a foreign country; [or]
- (7) Any claim arising out of the acts or omissions of any boating enforcement officer[.]; or
- (8) Any claim arising out of or based upon any failure of or error produced, calculated, or generated by a government computer system, which failure or error occurred prior to June 30, 1999 as a result of the system's not being year 2000 compliant, regardless of the cause for the system's not being year 2000 compliant. "Year 2000 compliant" means, with respect to a government computer system, that the system accurately processes date and time data (including, but not limited to, calculating, comparing, projecting, and sequencing) from, into, and between the twentieth and twenty-first centuries and the years 1999 and 2000 and leap year calculations."

SECTION 3. The department of accounting and general services shall report to the legislature no later than twenty days prior to the convening of the regular session of 1999, for all state departments in the executive branch, on the progress of efforts undertaken to address the year 2000 problem.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 17, 1998.)

ACT 214

S.B. NO. 3075

A Bill for an Act Relating to General Excise Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to exempt from the general excise tax amounts received by a management company as reimbursements of payroll costs incurred in managing or operating related entities selling telecommunications services.

Similar exemptions are already provided for in the case of amounts received from the owners by the operators of hotels and orchards in reimbursement of operational employee payroll costs (section 237-24.7, Hawaii Revised Statutes). It is important that the same exemption be extended to telecommunications businesses, because of the highly mobile nature of telecommunications jobs. Also, the general excise tax was never intended to serve, in effect, as a tax on payrolls.

This Act tells mainland telecommunications businesses that Hawaii wants and appreciates the high technology jobs that they provide to our citizens. It reassures these companies that Hawaii will not penalize them for organizing their operations into related entities which together provide Hawaii employment, Hawaii employee benefits, and telecommunications services, all in accordance with Hawaii law. In doing so, the Act removes an impediment to economic development and to the expansion and retention of employment opportunities in the telecommunications industry in Hawaii.

SECTION 2. Section 237-24.7, Hawaii Revised Statutes, is amended to read as follows:

**“§237-24.7 Additional amounts not taxable.** In addition to the amounts not taxable under section 237-24, this chapter shall not apply to:

- (1) Amounts received by the operator of a hotel from the owner of the hotel in amounts equal to and which are disbursed by the operator for employee wages, salaries, payroll taxes, insurance premiums, and benefits, including retirement, vacation, sick pay, and health benefits. As used in this paragraph:

“Employee” means employees directly engaged in the day to day operation of the hotel and employed by the operator.

“Hotel” means an operation licensed under section 445-92.

“Operator” means any person who, pursuant to a written contract with the owner of a hotel, operates or manages the hotel for the owner.

“Owner” means the fee owner or lessee under a recorded lease of a hotel;

- (2) Amounts received by the operator of a county transportation system operated under an operating contract with a political subdivision, where the political subdivision is the owner of the county transportation system. As used in this paragraph:



“County transportation system” means a mass transit system of motorized buses providing regularly scheduled transportation within a county.

“Operating contract” or “contract” means a contract to operate and manage a political subdivision’s county transportation system, which provides that:

- (A) The political subdivision shall exercise substantial control over all aspects of the operator’s operation;
- (B) The political subdivision controls the development of transit policy, service planning, routes, and fares; and
- (C) The operator develops in advance a draft budget in the same format as prescribed for agencies of the political subdivision. The budget must be subject to the same constraints and controls regarding the lawful expenditure of public funds as any public sector agency, and deviations from the budget must be subject to approval by the appropriate political subdivision officials involved in the budgetary process.

“Operator” means any person who, pursuant to an operating contract with a political subdivision, operates or manages a county transportation system.

“Owner” means a political subdivision that owns or is the lessee of all the properties and facilities of the county transportation system (including buses, real estate, parking garages, fuel pumps, maintenance equipment, office supplies, etc.), and that owns all revenues derived therefrom;

- (3) Surcharge taxes on rental motor vehicles imposed by chapter 251 and passed on and collected by persons holding certificates of registration under that chapter;
- (4) Amounts received by the operator of orchard properties from the owner of the orchard property in amounts equal to and which are disbursed by the operator for employee wages, salaries, payroll taxes, insurance premiums, and benefits, including retirement, vacation, sick pay, and health benefits. As used in this paragraph:

“Employee” means an employee directly engaged in the day to day operations of the orchard properties and employed by the operator.

“Operator” means a producer who, pursuant to a written contract with the owner of the orchard property, operates or manages the orchard property for the owner where the property contains an area sufficient to make the undertaking economically feasible.

“Orchard property” means any real property that is used to raise trees with a production life cycle of fifteen years or more producing fruits or nuts having a normal period of development from the initial planting to the first commercially saleable harvest of not less than three years.

“Owner” means a fee owner or lessee under a recorded lease of orchard property;

- (5) Taxes on nursing facility income imposed by chapter 346E and passed on and collected by operators of nursing facilities;
- (6) Amounts received under property and casualty insurance policies for damage or loss of inventory used in the conduct of a trade or business located within the State or a portion thereof that is declared a natural disaster area by the governor pursuant to section 209-2;
- (7) Amounts received as compensation by community organizations, school booster clubs, and nonprofit organizations under a contract with

the chief election officer for the provision and compensation of precinct officials and other election related personnel, services, and activities, pursuant to section 11-5; [and]

- (8) Interest received by a person domiciled outside the State from a trust company (as defined in section 412:8-101) acting as payment agent or trustee on behalf of the issuer or payees of an interest bearing instrument or obligation, if the interest would not have been subject to tax under this chapter if paid directly to the person domiciled outside the State without the use of a paying agent or trustee; provided that if the interest would otherwise be taxable under this chapter if paid directly to the person domiciled outside the State it shall not be exempt solely because of the use of a Hawaii trust company as a paying agent or trustee[.]; and

- (9) Amounts received by a management company from related entities engaged in the business of selling interstate or foreign common carrier telecommunications services in amounts equal to and which are disbursed by the management company for employee wages, salaries, payroll taxes, insurance premiums, and benefits, including retirement, vacation, sick pay, and health benefits. As used in this paragraph:

“Employee” means employees directly engaged in the day-to-day operation of related entities engaged in the business of selling interstate or foreign common carrier telecommunications services and employed by the management company.

“Management company” means any person who, pursuant to a written contract with a related entity engaged in the business of selling interstate or foreign common carrier telecommunications services, provides managerial or operational services to that entity.

“Related entities” means:

- (A) An affiliated group of corporations within the meaning of section 1504 (with respect to affiliated group defined) of the federal Internal Revenue Code of 1986, as amended;
- (B) A controlled group of corporations within the meaning of section 1563 (with respect to definitions and special rules) of the federal Internal Revenue Code of 1986, as amended; or
- (C) Those entities connected through ownership of at least eighty per cent of the total value of each such entity, including partnerships, associations, trusts, S corporations, nonprofit corporations, or any other group or combination of these or other tax entities acting as a business unit;  
whether or not the entity is located within or without the State or licensed under this chapter.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 1998, and shall apply to gross income or gross proceeds received after June 30, 1998.

(Approved July 17, 1998.)

## ACT 215

A Bill for an Act Relating to Real Property.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 514A, Hawaii Revised Statutes, is amended by adding a new section to part V to be appropriately designated and to read as follows:

**“§514A- Mixed use property; representation on the board of directors.** (a) The bylaws of an association of apartment owners may be amended to provide that the composition of the board reflect the proportionate number of apartments for a particular use, as set forth in the declaration. For example, an association of apartment owners may provide that for a nine-member board where two thirds of the apartments are for residential use and one third is for commercial use, sixty-six and two-thirds per cent of the nine-member board, or six members, shall be owners of residential use apartments and thirty-three and one-third per cent, or three members, shall be owners of commercial use apartments.

(b) Any proposed bylaws amendment to modify the composition of the board in accordance with subsection (a) may be initiated by:

(1) A majority vote of the board of directors; or

(2) A submission of the proposed bylaw amendment to the board of directors from a volunteer apartment owner’s committee accompanied by a petition from twenty-five per cent of the apartment owners of record.

(c) Within thirty days of a decision by the board or receipt of a petition to initiate a bylaws amendment, the board of directors shall mail a ballot with the proposed bylaws amendment to all of the apartment owners of record. For purposes of this section only and notwithstanding section 514A-82(b)(2), the bylaws may be initially amended by a vote or written consent of the majority (at least fifty-one per cent) of the apartment owners; and thereafter by sixty-five per cent of all apartment owners; provided that each of the requirements set forth in this section shall be embodied in the bylaws.

(d) The bylaws, as amended pursuant to this section, shall be recorded in the bureau of conveyances or filed in land court, as the case may be.

(e) Election of the new board of directors in accordance with an amendment adopted pursuant to this section shall be held within sixty days from the date the amended bylaws are recorded pursuant to subsection (d).

(f) As permitted in the bylaws or declaration, the vote of a commercial apartment owner shall be cast and counted only for the commercial seats available on the board of directors and the vote of a residential apartment owner shall be cast and counted only for the residential seats available on the board of directors.

(g) No petition for a bylaw amendment pursuant to subsection (b)(2) to modify the composition of the board shall be distributed to the apartment owners within one year of the distribution of a prior petition to modify the composition of the board pursuant to that subsection.

(h) This section shall not preclude the removal and replacement of any one or more members of the board pursuant to section 514A-82(b)(1). Any removal and replacement shall not affect the proportionate composition of the board as prescribed in the bylaws as amended pursuant to this section.

(i) This section shall be deemed incorporated into the bylaws of all properties subject to this chapter existing as of July 1, 1998, and thereafter.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved July 17, 1998.)

Note

- 1. Edited pursuant to HRS §23G-16.5.

ACT 216

S.B. NO. 3114

A Bill for an Act Relating to the Rental Housing Trust Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The rental housing trust fund (RHTF) was established in 1992 to provide loans and grants for the development, acquisition, and preservation of affordable rental housing units. According to the 1997 report to the legislature, the RHTF awarded \$21,300,000 to twenty projects to create one thousand one hundred eighty-two units, and for fiscal year 1995-1996 the RHTF awarded \$11,300,000 to twelve projects. The RHTF board meets each month and considers applications or modifications for individual projects.

The 1997 consolidated plan for the housing needs for the State of Hawaii finds that more than one hundred thousand people are either homeless or part of the hidden homeless who rely on relatives or friends for housing. The plan also finds the need for affordable housing is greatest among those with incomes less than fifty per cent of the median income, affecting more than eight thousand eight hundred households statewide. According to the Hawaii housing authority, more than twelve thousand homeless people are assisted by state programs every year and the numbers continue to increase.

Of those with household incomes of less than thirty per cent of the median income, nearly two-thirds in the State cannot afford their housing payments. It is extremely difficult for seniors whose sole income is their supplemental security payments to find housing they can afford. Families with children who earn incomes at or near the minimum wage face an even greater challenge to find affordable shelter. Currently, none of the housing projects being developed through funds allocated by the rental housing trust fund are targeted for occupants whose income totals below thirty per cent of the median income.

The purpose of this Act is to align state priorities with the demonstrated need to provide housing for households whose income totals less than thirty per cent of the median income.

SECTION 2. Section 201G-432, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§201G-432]]~~ **Rental housing trust fund.** (a) There is hereby established a rental housing trust fund to be placed within the corporation.

(b) An amount from the fund, to be set by the corporation and authorized by the legislature, may be used for administrative expenses incurred by the corporation in administering the fund; however, fund moneys may not be used to finance day-to-day administrative expenses of projects allotted fund moneys.

(c) The following may be deposited into the fund: appropriations made by the legislature, private contributions, repayment of loans, interest, other returns, and moneys from other sources.

(d) The fund shall be used to provide loans or grants for the development, pre-development, construction, acquisition, preservation, and substantial rehabilita-

tion of rental housing units. Permitted uses of the fund may include but are not limited to planning, design, land acquisition, costs of options, agreements of sale, downpayments, equity financing, capacity building of nonprofit housing developers, or other housing development services or activities as provided in rules adopted by the corporation pursuant to chapter 91. The rules may provide for a means of recapturing loans or grants made from the fund if a rental housing project financed under the fund is refinanced or sold at a later date. The rules may also provide that moneys from the fund shall be leveraged with other financial resources to the extent possible.

(e) Moneys in the fund shall be used for the purpose of providing in whole or in part loans or grants for housing projects wherein:

(1) At least fifty per cent of the available units are for persons and families with incomes at or below sixty per cent of the median family income; [and]

(2) At least ten per cent of the available units are for persons and families with incomes at or below thirty per cent of the median income; and

[(2)] (3) The remaining units are for persons and families with incomes at or below one hundred per cent of the median family income; provided that the corporation may establish rules to ensure full occupancy of fund projects.

(f) Commencing with fiscal year 1999-2000, at the close of each biennium, at least one-third of the funds allocated to construction projects for the period shall have been committed to projects that guarantee affordable units to persons or families with incomes at or below thirty per cent of the median income pursuant to section (e)(2). Commencing with the regular session of 2000, the corporation shall submit an annual report to the legislature documenting existing projects in compliance with this subsection no later than twenty days prior to the convening of each regular session.

[(f)] (g) For the purposes of this subpart, the applicable median family income shall be the median family income for the county or standard metropolitan statistical area in which the project is located as determined by the United States Department of Housing and Urban Development, as adjusted from time to time.

[(g)] (h) Providing loans and grants under this section; provided that the corporation shall establish loan-to-value ratios to protect the fund from inordinate risk and that under no circumstances shall the rules permit the loan-to-value ratio to exceed ninety-five per cent; and provided further that the underwriting guidelines include a debt-coverage ratio of not less than 1.05 to 1.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 1998.

(Approved July 17, 1998.)

## ACT 217

S.B. NO. 3137

A Bill for an Act Relating to Motor Carriers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 271-16, Hawaii Revised Statutes, is amended to read as follows:

“§271-16 Temporary authority. To enable the provision of service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting the need, the public utilities commission may, in its discretion and without hearings or other proceedings, grant temporary authority for such service by a common carrier or a contract carrier by motor vehicle, as the case may be. The temporary authority, unless suspended or revoked for good cause, shall be valid for such time as the commission shall specify, but for no more than a period of one-hundred-twenty days for any one immediate and urgent need[; provided that if]. If an application for a certificate of public convenience and necessity or a permit seeking corresponding permanent authority is filed in accordance with applicable laws, regulations, and instructions not later than thirty days after the issuance date of temporary authority, then [in that event,] the commission [may] shall determine at a public hearing held not later than one-hundred-twenty days after the issuance date of temporary authority upon its own motion, or upon motion or upon request by any interested party, whether any temporary operating authority granted under this section shall be continued in force beyond the expiration date specified therein, and until the determination of the application filed by the holder of the temporary operating authority for a certificate of public convenience and necessity or a permit to engage in operations authorized by the temporary operating authority.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 17, 1998.)

## ACT 218

S.B. NO. 3143

A Bill for an Act Relating to Utility Transmission Lines.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 269-27.6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Notwithstanding any law to the contrary, whenever a public utility applies to the public utilities commission for approval to place, construct, erect, or otherwise build a new forty-six kilovolt or greater high-voltage electric transmission system, either above or below the surface of the ground, the public utilities commission shall determine whether the electric transmission system shall be placed, constructed, erected, or built above or below the surface of the ground; provided that in its determination, the public utilities commission shall consider [the following factors]:

- (1) Whether [there is] a benefit exists that outweighs the costs [to place] of placing the electric transmission system underground;
- (2) Whether there is a governmental public policy requiring the electric transmission system to be placed, constructed, erected, or built underground, and the governmental agency establishing the policy commits funds for the additional costs of undergrounding;
- (3) Whether any governmental agency or other parties are willing to pay for the additional costs of undergrounding; [and]

- (4) The recommendation of the division of consumer advocacy of the department of commerce and consumer affairs, which shall be based on an evaluation of the factors set forth under this subsection; and  
 [(4)] (5) Any other relevant factors.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 17, 1998.)

## ACT 219

S.B. NO. 3159

A Bill for an Act Relating to the Time Share Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 501, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

### “PART . LEASEHOLD TIME SHARE INTERESTS

**§501- Leasehold time share interests.** (a) Except as otherwise expressly provided in this part, the requirements of chapter 502 shall apply to a leasehold time share interest and the requirements of this chapter shall not apply to such leasehold time share interest.

(b) Without limiting the generality of subsection (a), the following instruments need not be registered pursuant to this chapter to be effective and shall be recorded in the bureau of conveyances pursuant to chapter 502:

- (1) An assignment or other instrument transferring a leasehold time share interest;
- (2) A mortgage or other instrument granting a lien on a leasehold time share interest;
- (3) An agreement of sale for the sale of a leasehold time share interest. Any such agreement of sale shall be subject to section 502-85 and shall not be subject to section 501-101.5 of this chapter;
- (4) A lien or notice of lien pertaining to a leasehold time share interest in favor of a time share owners association, an association of apartment owners, or a similar homeowner’s association;
- (5) A judgment, decree, order of court, attachment, writ or other process against a leasehold time share interest;
- (6) A mechanic’s or materialmans’ lien or other lien upon a leasehold time share interest;
- (7) A lis pendens or notice of pendency of action, notice, affidavit, demand, certificate, execution, copy of execution, officer’s return, or other instrument relating to a leasehold time share interest and otherwise required or permitted to be recorded or registered in connection with the enforcement or foreclosure of any lien, whether by way of power of sale pursuant to a power of sale under section 667-5, or otherwise;
- (8) A power of attorney given by the owner of a leasehold time share interest or the vendor or vendee under an agreement of sale for the sale

of a leasehold time share interest, a mortgagee or other lienor having a mortgage or lien upon a leasehold time share interest, or another party holding a claim or encumbrance against or an interest in a leasehold time share interest; or

- (9) An instrument assigning, extending, continuing, dissolving, discharging, releasing in whole or in part, reducing, canceling, extinguishing, or otherwise modifying or amending any of the foregoing instruments.

(c) Every conveyance, lien, attachment, order, decree, instrument, or entry affecting a leasehold time share interest which would, if registered, filed or recorded, or entered in the office of the assistant registrar pursuant to this chapter, affect the leasehold time share interest to which it relates, if recorded, filed, or entered in the bureau of conveyances pursuant to chapter 502, shall be notice to all persons from the time of such recording, filing, or entering in the bureau of conveyances.

(d) The assistant registrar shall not be required to make a memorandum or other note upon the certificate of title for registered land subject to a leasehold time share interest of any conveyance, lien, attachment, order, decree, instrument, or entry recorded, filed, or entered solely in the bureau of conveyances against the leasehold time share interest.

(e) Notwithstanding subsections (a), (b), and (c), the following instruments shall be registered by recording the instrument with the assistant registrar and by a brief memorandum thereof made by the assistant registrar upon the certificate of title, and signed by the assistant registrar:

- (1) The apartment lease, and any amendments thereto, and any cancellation or extinguishment thereof;
- (2) Any deed or other instrument conveying the fee interest in registered land and any other instrument encumbering or otherwise dealing with the fee interest in registered land including but not limited to a mortgage of the fee interest, an assignment of the lessor's interest in a lease, or the designation, grant, conveyance, transfer, cancellation, relocation, realignment, or amendment of any easement encumbering the fee interest;
- (3) If the apartment lease is a sublease, any assignment or other conveyance of the sublessor's estate or any other leasehold estate which is superior to the apartment lease, and any other instrument mortgaging, encumbering, or otherwise dealing with the sublessor's estate or any other estate which is prior and superior to the leasehold time share interest;
- (4) Any other instrument assigning, modifying, canceling, or otherwise dealing with an interest in registered land which is:
  - (A) Less than an estate in fee simple; and
  - (B) Prior or superior to the lessee's interest in a leasehold time share interest;
- (5) The declaration of condominium property regime or similar declaration by whatever name denominated, the bylaws of the association of apartment owners, the condominium map, any declaration of annexation or deannexation, any declaration of merger and any instrument effecting a merger, and any amendments to any of the foregoing and any cancellation or extinguishment thereof;
- (6) Any declaration of covenants, conditions and restrictions or similar instrument, by whatever name denominated, encumbering the fee, the bylaws of any homeowners association, any declaration of annexation or deannexation, any amendments and supplements thereto, and any cancellation or extinguishment thereof;



- (7) Any declaration of covenants, conditions, restrictions, or similar instrument, by whatever name denominated, establishing the time share plan, the bylaws of the time share owners association, any declaration of annexation or deannexation, any amendments and supplements thereto, and any cancellation or extinguishment thereof; and
- (8) Any notice of time share plan, any declaration of annexation or deannexation, any amendments thereto, and any cancellation or extinguishment thereof.

(f) The execution or joinder of the lessees of the leasehold time share interests shall not be required for the registration or notation of instruments which must be registered and noted pursuant to subsection (e), above; provided, however, an instrument amending, canceling, or extinguishing an apartment lease shall not be registered unless such instrument is:

- (1) Required to be registered by order of a court of competent jurisdiction;
- (2) Executed by officers of the time share owners association pursuant to any registered time share instrument or power of attorney which authorizes the time share owners association, its board, or its officers, to deal with issues arising under the apartment lease; or
- (3) Accompanied by an affidavit of an officer of any title insurer or underwritten title company, as defined in section 431:20-102, stating that based upon a search of the records of title to the apartment lease, the parties who executed and acknowledged the instrument amending, canceling, or extinguishing the apartment lease are the owners of the leasehold time share interests in such apartment and/or their duly authorized attorney(s)-in-fact. In the event that the affidavit is incorrect and the title insurer or underwritten title company acted with gross negligence or in bad faith in making the affidavit, the title insurer or underwritten title company shall be liable to the owners of the leasehold time share interests for treble damages and reasonable attorneys' fees and costs.

This section shall not alter the rights of the parties to any such instrument.

**§501- Status of leasehold time share interest as real property.** Nothing in this part shall affect the status of a leasehold time share interest as real property.

**§501- Dual recording involving leasehold time share interests.** Nothing in this part shall prevent or prohibit the registration of an instrument which assigns or affects both:

- (1) One or more leasehold time share interests; and
- (2) One or more interests in registered land other than a leasehold time share interest.

**§501- Assignment of leasehold time share interest.** Any instrument which first assigns or otherwise conveys a leasehold time share interest shall refer to the land court document number of the apartment lease or the most recent assignment of the whole thereof, whichever is later. Any subsequent instrument of assignment or conveyance shall refer to the book and page or bureau of conveyances document number of the prior instrument of assignment or conveyance for the leasehold time share interest acquired.

**§501- Reference to recorded instruments pertaining to leasehold time share interests.** Any instrument assigning, conveying, or otherwise dealing with a leasehold time share interest and which requires a reference to a prior recorded instrument may satisfy the requirements of section 502-33 by reference to the land

court document number (in the case of a document recorded pursuant to chapter 501) or to the book and page or bureau of conveyances document number (in the case of a document recorded pursuant to chapter 502) of the instrument to which reference is made.

**§501- Legal incidents of a leasehold time share interest.** A leasehold time share interest, and ownership therein, shall in all respects be subject to the same burdens and incidents which attach by law to the lessee's interest in a leasehold apartment that is part of a condominium property regime established on unregistered land and which is not utilized in a time share plan.

Nothing in this part shall, in any way, be construed to relieve a leasehold time share interest or the owners thereof:

- (1) From any rights incident to the relation of husband and wife;
- (2) From liability to attachment or mesne process or levy on execution;
- (3) From liability to any lien of any description established by law on the leasehold time share interest, or in the interest of the owner in the leasehold time share interest;
- (4) To change the laws of descent;
- (5) The rights of partition between coparceners and other cotenants;
- (6) The right to take the same by eminent domain;
- (7) To relieve such leasehold time share interest from liability to be recovered by a trustee in bankruptcy under the provisions of law relating to preferences; or
- (8) To change or affect in any way any other rights or liabilities created by law and applicable to the lessee's interest in a leasehold apartment which is part of a condominium property regime established on unregistered land and which is not utilized in a time share plan; except as otherwise expressly provided in this part.

**§501- Voluntary dealing with a leasehold time share interest.** (a) Except as otherwise provided in this part, an owner of a leasehold time share interest may convey, mortgage, sublease, charge, or otherwise deal with the same as if the condominium to which it pertains was established on unregistered land. The owner may use forms of assignments, mortgages, or other voluntary instruments like those now in use and sufficient in law for the purpose intended.

(b) Notwithstanding subsection (a) and section 502-83, no assignment, mortgage, or other voluntary instrument (except a will, a lease for a term not exceeding one year, or an instrument required by this part to be registered in the land court and which is so registered) purporting to assign or affect a leasehold time share interest, shall take effect as a conveyance or bind the leasehold time share interest, but shall operate only as a contract between the parties, and as evidence of authority to the registrar or assistant registrar. The act of recordation pursuant to chapter 502 shall be the operative act to assign or affect the leasehold time share interest.

**§501- Jurisdiction for matters pertaining to leasehold time share interests.** The land court shall have jurisdiction over all matters relating to instruments required by this part to be registered pursuant to this chapter. Where any party is in doubt as to whether an instrument must be registered, the question shall be referred to the land court for decision; and the court, after notice to all parties and a hearing, shall enter an order determining the question. Except as expressly otherwise provided in this section, nothing in this part shall deprive the land court of exclusive jurisdiction pursuant to section 501-101 over registered land, or any interest therein, which is prior or superior to the interest of the lessee of a leasehold time share

interest. The circuit court shall have jurisdiction, pursuant to section 603-21.5(3), over:

- (1) All matters relating to instruments required by this part to be recorded pursuant to chapter 502;
- (2) All other matters pertaining to a leasehold time share interest (except those in which jurisdiction is vested in the land court pursuant to this section); and
- (3) All matters as to which jurisdiction would otherwise lie in the land court in part and in the circuit court in part.”

SECTION 2. Section 53-60, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Complaints or orders issued pursuant to an ordinance adopted under this section shall be served upon persons either personally or by registered mail, but if the whereabouts of the persons is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer makes an affidavit to that effect, then the serving of the complaint or order upon the persons may be made by publishing the same once each week for two consecutive weeks in a newspaper printed and published in the county, or, in the absence of such newspaper, in one printed and published in the State and circulating in the county in which the dwellings are located. A copy of the complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of the complaint or order shall also be filed with the registrar of conveyances or, in the case of registered land[,] (but excluding a leasehold time share interest), with the assistant registrar of the land court as provided in section 501-136, and the filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law.”

SECTION 3. Section 132-7, Hawaii Revised Statutes, is amended to read as follows:

“**§132-7 Duty of owner to remove fire hazard; expense; lien.** If the owner or occupant, to whom the order is directed, fails to comply with the order, or with the order as modified on appeal, and within the time therein fixed, then the county fire chief may cause the buildings, structures, or premises to be repaired, torn down, demolished, materials removed, and all dangerous conditions remedied, as the case may be, at the expense of the owner or occupant, and, if the owner or occupant within thirty days thereafter fails, neglects, or refuses to pay the county fire chief the expense incurred thereby by the fire chief, the county shall have a prior lien for the expense on the real estate on which the buildings or structures were located, or on the premises involved, by the filing of a notice of lien in the bureau of conveyances or [with the assistant registrar of the land court, if the real estate or premises involved is registered in the land court.] in the office of the assistant registrar of the land court, or both, as appropriate.”

SECTION 4. Section 181-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any unexpired permit shall be effective only so long as the operator possesses the legal right and power by legal estate owned to strip mine from the land described in the permit. All authority of the board of land and natural resources to enforce the requirements prescribed in section 181-6 shall terminate within ten years after the end of the permit year in which strip mining was completed or abandoned

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upon the land unless before the end of the period he has served upon the operator written directions to comply therewith. The board shall release from the effect of this chapter, either by reason of compliance or limitation of time, all or any part of the land affected by this chapter by filing in the bureau of conveyances of the State, or [with] in the office of the assistant registrar of the land court [if title to the land is registered], or both, as appropriate, a written release in form prepared by the board.”

SECTION 5. Section 246-55, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) In case of cotenancy, if one cotenant pays, within the period of the aforesaid government lien, all of the real property taxes, interest, penalties, and other additions to the tax, due and delinquent at the time of payment, the cotenant shall have, pro tanto, a lien on the interest of any noncontributing cotenant upon recording in the bureau of conveyances, within ninety days after the payment so made by the cotenant, a sworn notice setting forth the amount claimed, a brief description of the land affected by tax key or otherwise, sufficient to identify it, the tax year or years, and the name of the cotenant upon whose interest such lien is asserted. When a notice of such tax lien is recorded by a cotenant, the registrar shall forthwith cause the same to be indexed in the general indexes of the bureau of conveyances. In case the land affected is registered in the land court and is not a leasehold time share interest as described in section 501-20, the notice shall also contain a reference to the number of the certificate of title of such land and shall be filed and registered in the office of the assistant registrar of the land court, and the registrar, in the registrar’s capacity as assistant registrar of the land court, shall make a notation of the filing thereof on each land court certificate of title so specified.

The cotenant’s lien shall have the same priority as the lien or liens of the government for the taxes paid by the cotenant, and may be enforced by an action in the nature of a suit in equity. The lien shall continue for three years after recording or registering, or until termination of the proceedings for enforcement thereof if such proceedings are begun and notice of the pendency thereof is recorded or filed and registered as provided by law, within the period.

(c) The director or the director’s subordinate, in case of a government lien, and the creditor cotenant, in case of a cotenant’s lien, at the expense of the debtor, upon payment of the amount of the lien, shall execute and deliver to the debtor a sworn satisfaction thereof, including a reference to the name of the person assessed or cotenant affected as shown in the original notice, the date of filing of the original notice, a description of the land involved[,], and, except with respect to a leasehold time share interest as described in section 501-20, the number of the certificate of title of such land if registered in the land court, which, when recorded in the bureau of conveyances or filed and registered in the office of the assistant registrar of the land court, in the case of a cotenant’s lien, which contains the reference to the book and page or document number of the original lien, shall be entered in the general indexes of the bureau of conveyances, and if a notation of the original notice was made on any land court certificate of title the filing of such satisfaction shall also be noted on the certificate.

This section as to cotenancy shall apply, as well, in any case of ownership by more than one assessable person.”

SECTION 6. Section 501-20, Hawaii Revised Statutes, is amended by adding five new definition to be appropriately inserted and to read as follows:

“**§501-20 Definitions.** As used in this chapter, unless the context otherwise requires:<sup>1</sup>

“Apartment lease” means an apartment lease, a condominium conveyance document, an apartment deed and ground lease, or other instrument which has been registered pursuant to section 501-121 and which leases or subleases a condominium apartment or its appurtenant undivided interest in the land of a condominium project established or existing under the condominium property act or at common law.

“Leasehold time share interest” means a time share interest consisting of an undivided interest in an apartment lease.

“Notice of time share plan” means a notice of time share plan as that term is defined in chapter 514E.

“Time share interest” means a time share interest as that term is defined in chapter 514E.

“Time share plan” means a time share plan as that term is defined in chapter 514E.”

SECTION 7. Section 501-82, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) Every applicant receiving a certificate of title in pursuance of a decree of registration, and every subsequent purchaser of registered land who takes a certificate of title for value and in good faith, hold the same free from all encumbrances except those noted on [a] the certificate in the order of priority of recordation, and any of the following encumbrances which may be subsisting, namely:

- (1) Liens, claims, or rights arising or existing under the laws or Constitution of the United States, which the statutes of this State cannot require to appear of record in the registry; provided that notices of liens for internal revenue taxes payable to the United States, and certificates affecting such liens, shall be deemed to fall within this paragraph only if the same are recorded in the bureau of conveyances as provided by chapter 505[.];
- (2) Unpaid real property taxes assessed against the land and improvements covered by the certificate of title, with interest, penalties, and other additions to the tax, which, unless a notice is filed and registered as provided by county real property tax ordinance, shall be for the period of three years from and after the date on which the lien attached, and if proceedings for the enforcement or foreclosure of the tax lien are brought within the period, until the termination of the proceedings or the completion of the tax sale[.];
- (3) State tax liens, if the same are recorded in the bureau of conveyances as provided by section 231-33[.];
- (4) Any public highway, or any private way laid out under the provisions of law, when the certificate of title does not state that the boundary of such way has been determined[.];
- (5) Any lease, coupled with occupancy, for a term not exceeding one year; provided that the priority of the unrecorded lease shall attach only at the date of the commencement of the unrecorded lease and expire one year from the date or sooner if so expressed[.];
- (6) Any liability to assessments for betterments, or statutory liability which may attach to land as a lien prior to or independent of, the recording or registering of any paper of the possibility of a lien for labor or material furnished in the improvement of the land; provided that the priority of any such liability and the lien therefor (other than for labor and material furnished in the improvement of the land which shall be governed by section 507-43) shall cease and terminate three years after the liability

first accrues unless notice thereof, signed by the officer charged with collection of such assessments or liability, setting forth the amount claimed, the date of accrual, and the land affected, is registered and noted on the certificate of title within such three year period; provided further that if there are easements or other rights, appurtenant to a parcel of registered land which for any reason have failed to be registered, such easements or rights shall remain so appurtenant notwithstanding such failure, and shall be held to pass with the land until cut off or extinguished by the registration of the servient estate, or in any other manner[.];

- (7) The possibility of reversal or vacation of the decree of registration upon appeal[.]; or
- (8) Any encumbrance not herein required to be registered as provided in chapter 501, part \_\_\_\_\_ and relating to a leasehold time share interest.”

2. By amending subsection (c) to read:

“(c) [If] Except as provided in chapter 501, part \_\_\_\_\_, if the title of a recorded document indicates that it contains an encumbrance, the assistant registrar shall note the document as an encumbrance on the certificate of title or the new certificate of title issued upon recordation of such document, as applicable.”

SECTION 8. Section 501-103, Hawaii Revised Statutes, is amended to read as follows:

**“§501-103 Conveyances of less than fee simple.** No new certificate shall be entered or issued upon any transfer of registered land which does not divest the title in fee simple from the owner or one of the registered owners. [All] Except as provided in chapter 501, part \_\_\_\_\_, all interests in registered land less than an estate in fee simple shall contain a reference to the document number of the interest acquired and shall be registered by recording with the assistant registrar the instrument creating or transferring or claiming such interest, and by a brief memorandum thereof made by the assistant registrar upon the certificate of title, and signed by the assistant registrar. [The] Except as provided in chapter 501, part \_\_\_\_\_, the cancellation or extinguishment of such interests shall be recorded in the same manner.”

SECTION 9. Section 501-110, Hawaii Revised Statutes, is amended to read as follows:

**“§501-110 Statement of encumbrances.** If at the time of any transfer there appears upon the registration book encumbrances or claims adverse to the title of the registered owner, they shall be stated in the new certificate or certificates, except as far as they may be simultaneously released or discharged[.] and except as provided in chapter 501, part \_\_\_\_\_.”

SECTION 10. Section 507-43, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Time for filing. The Application and Notice shall be filed not later than forty-five days after the date of completion of the improvement against which it is filed. Where title to the property involved, or any portion thereof, is registered in the land court and the lien is not claimed solely against the lessees’ interest in one or more leasehold time share interests as described in section 501-20, it shall be incumbent upon the lienor to file a certified copy of the Order Directing Lien To Attach in the office of the assistant registrar of the land court within seven days after

the entry thereof in order to preserve the lienor's rights against subsequent encumbrancers and purchasers of the property."

SECTION 11. Section 507-45, Hawaii Revised Statutes, is amended to read as follows:

**"§507-45 Discharge of lien.** Any mechanics' and materialmen's lien may be discharged at any time by the owner, lessee, principal contractor or intermediate subcontractor filing with the clerk of the circuit court of the county in which the property is located or with the assistant registrar of the land court (if registered land is affected[.]) except when the lien attaches solely to the interest of the lessees in one or more leasehold time share interests as described in section 501-20), cash or a bond for twice the amount of the sum for which the claim for the lien is filed, conditioned for the payment of any sum for which the claimant may obtain judgment upon the claimant's claim."

SECTION 12. Section 507-46, Hawaii Revised Statutes, is amended to read as follows:

**"§507-46 Priority, record of; satisfaction.** The lien shall relate to and take effect from the time of the visible commencement of operations for the improvement; it shall rank equally in priority subject to the provisos hereinafter contained with all other mechanics' and materialmen's liens and shall have priority over all other liens of any nature, except liens in favor of any branch of the government and mortgages, liens or judgments recorded or filed prior to the time of the visible commencement of operation; provided that all liens for wages for labor performed in the completion of the improvement, but not exceeding \$300 for each claimant, shall have priority as a class over all other mechanics' and materialmen's liens where claims are filed by [(1) the]:

- (1) The person who actually performed the labor; [(2) the]
- (2) The person's legal representative in the event of death or incapacity[.]; or [(3) the]
- (3) The director of labor and industrial relations pursuant to chapter 371; and provided further that where a mortgage is recorded prior to the date of completion, and all or a portion of the money advanced under and secured by the mortgage is thereafter used for the purpose of paying for the improvement, the mortgagee shall be entitled, to the extent of the payments, to priority over liens of mechanics and materialmen, but no such priority shall be allowed unless the mortgage recites that the purpose of the mortgage is to secure the moneys advanced for the purpose of paying for the improvement in whole or in part. Payments made in good faith to the general contractor for such purposes shall be presumed to have been used for the purpose of paying for the improvement. Whenever the lien or claim of lien herein provided is satisfied (other than by the limitations expressed in section 507-43), a written notice thereof shall, at the expense of the lienee, be filed with the clerk of the circuit court, which shall be noted in the mechanics' lien record, and if title to the land involved is registered in the land court[.], and the lien did not attach solely to the interest of the lessee in one or more leasehold time share interests, it shall also be filed in the office of the assistant registrar of the court."

SECTION 13. Section 531-15, Hawaii Revised Statutes, is amended to read as follows:

**“§531-15 Determination of bar to dower or curtesy.** The bar to dower and curtesy or to rights by way of dower or curtesy provided by the second paragraph of sections 533-9 and 533-16, respectively, shall not operate except upon determination by order of a court of probate in proceedings for the administration of the estate, or by a court in proceedings for the determination of heirs, of the deceased spouse, and then only if claim of bar is made by a person claiming the estate, or any part thereof, or any interest therein. The spouse sought to be barred shall be notified of the claim and of the hearing thereon either by personal service or by publication of the notice thereof, in the manner provided for, and which may be included in, notice of determination of heirs or devisees or by both such personal and published service, as the court may direct. The order of determination shall be conclusive as to the rights of the surviving spouse, subject only to be reversed, set aside or modified on appeal. A certified copy of the order shall be recorded in the bureau of conveyances, in case the title to land is involved, and if the land affected has been registered in the land court, a like copy shall be filed in the office of the assistant registrar of the court[.] unless the interest of the deceased spouse in such land consists solely of one or more leasehold time share interests as described in section 501-20.”

SECTION 14. Section 634-51, Hawaii Revised Statutes, is amended to read as follows:

**“[[§634-51]] Recording of notice of pendency of action.** In any action concerning real property or affecting the title or the right of possession of real property, the plaintiff, at the time of filing the complaint, and any other party at the time of filing a pleading in which affirmative relief is claimed, or at any time afterwards, may record in the bureau of conveyances a notice of the pendency of the action, containing the names or designations of the parties, as set out in the summons or pleading, the object of the action or claim for affirmative relief, and a description of the property affected thereby. From and after the time of recording the notice, a person who becomes a purchaser or encumbrancer of the property affected shall be deemed to have constructive notice of the pendency of the action and be bound by any judgment entered therein if the person claims through a party to the action; provided that in the case of registered land, section 501-151 and chapter 501, part shall govern.

This section authorizes the recording of a notice of the pendency of an action in a United States District Court, as well as a state court.”

SECTION 15. Section 636-3, Hawaii Revised Statutes, is amended to read as follows:

**“§636-3 Judgment, lien when.** Any money judgment or decree of a state court or the United States District Court for the District of Hawaii shall be a lien upon real property when a copy thereof, certified as correct by a clerk of the court where it is entered, is recorded in the bureau of conveyances. No such lien shall continue beyond ten years after the date of the judgment. Except as otherwise provided, every judgment shall contain or have endorsed on it the social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number for persons, corporations, partnerships, or other entities against whom the judgment is rendered. If the judgment debtor has no social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number, or if that information is not in the possession of the party seeking registration of the judgment, the judgment shall be accompanied by a certificate that provides that the information does not exist or is not in the possession of the party seeking recordation of the judgment. Failure to



disclose or disclosure of an incorrect social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number shall not in any way adversely affect or impair the lien created upon recordation of the judgment. When any such judgment is fully paid, the creditor or the creditor's attorney of record in the action shall, at the expense of the debtor, execute, acknowledge, and deliver to the debtor a satisfaction thereof, which may be recorded in the bureau. Every satisfaction or assignment of judgment shall contain a reference to the book and page or document number of the registration of the original judgment. The recording fees for a judgment and for each assignment or satisfaction of judgment shall be as provided by section 502-25.

In the case of registered land, section 501-102 and chapter 501, part \_\_\_\_\_ shall govern.”

SECTION 16. Nothing contained in this Act shall in any manner affect any determination made in connection with the original land court registration of title to any land or made in connection with the issuance of any certificate of title by the land court subsequent to the original registration. All instruments, documents, and papers registered by the land court and every entry and endorsement of any memorials upon any such certificate of title shall be considered to form part of the record chain of title of a leasehold time share interest and afford constructive notice of their contents to the same extent as though they appeared of record in the bureau of conveyances; provided that no such instrument, document, paper, entry, or endorsement shall have any greater or other effect after June 30, 1999, as constructive notice or otherwise, than it had or acquired at the time it was registered in land court or made; and provided further that nothing contained in this Act shall be construed as giving any greater or other effect, as constructive notice or otherwise, to any instrument, document, or paper recorded in the bureau of conveyances prior to July 1, 1999, as to any leasehold time share interest than was provided by the laws of this State (including chapter 501, Hawaii Revised Statutes, and other laws regarding property registered in land court) in effect at the time such instrument, document or paper was recorded. (Illustration: A recorded judgment is not a lien against the interest of the lessee of a leasehold time share interest unless registered; and such judgment, recorded but not registered prior to July 1, 1999, will, under this section, not constitute a lien on the interest of the lessee in a leasehold time share interest after June 30, 1999, until recorded anew.)

SECTION 17. Nothing contained in this Act shall terminate, extinguish, diminish, or impair any existing right in or pertaining to any leasehold time share interest, title to which had been registered in land court before July 1, 1999, or any existing right to any compensation created by chapter 501, Hawaii Revised Statutes, but any such right may be asserted and enforced in the same manner, to the same extent, and subject to the same limitations, provided in the land court laws amended by this Act. This section is subject to section 16.

SECTION 18. All acts passed by the legislature during this regular session of 1998, whether enacted before or after the effective date of this Act, shall be amended to conform with this Act unless such acts specifically provide that this Act is being amended.

SECTION 19. Statutory material to be repealed is bracketed. New statutory material is underscored.

## ACT 220

SECTION 20. This Act shall take effect on July 1, 1999.

(Approved July 17, 1998.)

### Note

1. So in original.

## ACT 220

S.B. NO. 3248

A Bill for an Act Relating to Special Purpose Revenue Bonds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 39A-52, Hawaii Revised Statutes, is amended to read as follows:

**“§39A-52 Sunset provision.** After [June 30, 2000,] June 30, 2003, no new special purpose revenue bonds shall be issued under this part.”

SECTION 2. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

Pursuant to part II, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed the sum of \$150,000,000, in one or more series, for the purpose of assisting the Queen’s Health Systems and its subsidiaries to finance the costs of construction of, improvements to, and equipping of hospital facilities and other capital-related projects. The authorization is in addition to any special purpose revenue bonds authorized under any other Act for the purpose of assisting the Queen’s Health Systems and its subsidiaries. The legislature finds and determines that the activities and facilities of the Queen’s Health Systems and its subsidiaries constitute a project as defined in part II, chapter 39A, Hawaii Revised Statutes, and that the financing thereof is assistance to a health care facility.

SECTION 3. The department of budget and finance is further authorized to issue from time to time refunding special purpose revenue bonds in such principal amounts as the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2. In making such determination, the department shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this section.

SECTION 4. The special purpose revenue bonds and refunding special purpose revenue bonds issued under this Act shall be issued pursuant to chapter 39A, part II, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist not-for-profit corporations that provide health care facilities to the general public.

SECTION 5. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 2003.

SECTION 6.<sup>1</sup> This Act shall take effect upon its approval.

(Approved July 17, 1998.)

## Note

1. No Ramseyer clause.

## ACT 221

H.B. NO. 2366

A Bill for an Act Relating to Transportation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that action must be taken to address the traffic congestion and other transportation-related problems in the State. An intra-island water ferry transportation system is one alternative that might be able to:

- (1) Reduce traffic congestion;
- (2) Delay the need for costly expansion of the H-1 freeway and other routes; and
- (3) Promote tourism to the extent that transportation is facilitated.

Further, to facilitate transportation, reduce traffic, and promote development, the creation of a public-private partnership in which:

- (1) Fees for the use of public infrastructure and terminals may be waived or assessed at nominal rates and public lands may be leased for a nominal sum to a private entity; and
- (2) The private entity, in consideration for the reduced user fees and land lease, agrees to operate an intra-island water ferry transportation system at no cost or nominal cost to the State for the duration of the concessions as determined jointly by the department of transportation and the department of land and natural resources,

would be ideal in dealing with the traffic problems facing the State.

With the flexibility of having a private entity develop the ferry system, there should be nominal or no cost to the State. This is especially true because the infrastructure, in terms of harbor and docking facilities, already exists at the terminal points for the intra-island water ferry transportation system.

The purpose of this Act is to authorize the department of transportation to implement an intra-island water ferry transportation system.

SECTION 2. The department of transportation is authorized to implement an intra-island water ferry transportation system subject to chapter 103D, Hawaii Revised Statutes. The intra-island water ferry transportation system shall be premised upon the transportation of commuters during peak traffic periods and may be used for other revenue generating purposes during non-peak traffic periods. The system may include landings at various locations along the southern coast of Oahu and shall be integrated with ground transportation.

The department of transportation and the department of land and natural resources are authorized to:

- (1) Waive or assess nominal fees for the use of public infrastructures and terminals by the operator of the intra-island water ferry transportation system; and
- (2) Lease public lands at a nominal cost to the operator of the intra-island water ferry transportation system.

In return for concessions as determined jointly by the department of transportation and the department of land and natural resources, the operator of the intra-island water ferry transportation system shall provide the ferry service at no cost or nominal cost to the State for the duration of the concessions. Operating expenses may be further supplemented by other revenue-generating activities during non-peak traffic periods.

## ACT 222

The department of transportation shall aggressively explore the possibility of obtaining federal funds to implement the intra-island water ferry transportation system.

SECTION 3. The department of transportation may conduct an intra-island water ferry transportation system demonstration project which shall be exempt from the statutory provisions of chapters 103D and 271G, Hawaii Revised Statutes. The department may transition the demonstration project into a permanent intra-island water ferry transportation system. The exemptions from chapters 103D and 271G, Hawaii Revised Statutes, shall not apply to the permanent intra-island water ferry transportation system.

SECTION 4. There is established in the state treasury the ferry project special fund, into which shall be deposited revenues collected by the operators of the intra-island water ferry transportation system. Moneys in the ferry project special fund shall be used to offset costs incurred by the intra-island water ferry transportation system or demonstration project, or both; provided that no expenditure shall be made from, and no obligation shall be incurred against the fund in excess of its deposits. Moneys in the fund shall be expended by the department of transportation.

SECTION 5. The department of transportation shall submit a report to the legislature on the intra-island water ferry transportation system no later than thirty days prior to the convening of the regular session of 2000.

SECTION 6. This Act shall take effect on July 1, 1998.

(Approved July 20, 1998.)

## ACT 222

H.B. NO. 2533

A Bill for an Act Relating to Quarantine.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 150A-14, Hawaii Revised Statutes, is amended by amending subsection (c)<sup>1</sup> to read as follows:

“(c) [Any] Notwithstanding section 706-640:

- (1) Any person or organization that violates [sections] section 150A-6(a)(3) or 150A-6(a)(4), or owns or intentionally transports, possesses, harbors, [propagates, sells,] transfers, or causes the importation of any snake or other prohibited animal seized under section 150A-7(b), or whose violation involves a plant, animal, or microorganism that is prohibited or restricted without a permit shall be guilty of a petty misdemeanor and [fined] subject to a fine of not less than [\$500. The provisions of section 706-640 notwithstanding, the maximum fine shall be \$25,000.] \$5,000, but not more than \$20,000; and
- (2) Any person or organization who intentionally transports, harbors, or imports with the intent to propagate, sell, or release any plant, animal, or microorganism that is prohibited or restricted without a permit shall be guilty of a class C felony and subject to a fine of not less than \$50,000, but not more than \$200,000; and

(d)<sup>1</sup> For purposes of this section “intent to propagate” shall be presumed when the person or organization in question is found to possess, transport, harbor, or import:

- (1) Any two or more animal specimens of the opposite sex that are prohibited or restricted, without a permit;
- (2) Any three or more animal specimens of either sex that are prohibited or restricted, without a permit;
- (3) Any plant or microorganism having the inherent capability to reproduce and is prohibited or restricted, without a permit; or
- (4) Any specimen that is in the process of reproduction.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**Note**

1. So in original.

**ACT 223**

H.B. NO. 2567

A Bill for an Act Relating to the Duplication of Governmental Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act implements recommendations to eliminate duplication in government services as proposed by the economic revitalization task force, which was convened by the governor, the president of the senate, and the speaker of the house of representatives.

The legislature recognizes that the state and county governments each have programs that deal with highway and road maintenance, parks, health and ambulance services, human services, housing, civil defense, and other government services. Currently, the state and county governments are experiencing reduced revenues due to the prevailing economic conditions. Therefore, state and county governments must increase efficiency in the delivery of government services.

The purpose of this Act is to:

- (1) Require the governor and the mayors of the respective counties to analyze the issue of duplicative state and county services, determine areas and methods to consolidate, and draft implementation plans; and
- (2) Develop a viable process to eliminate the duplication of government services at the state and county levels.

SECTION 2. The governor and mayors of the respective counties, shall:

- (1) Analyze the issue of duplicative state and county services;
- (2) Determine areas of duplication and methods to consolidate;
- (3) Draft implementation plans to eliminate duplication; and
- (4) Draft a final plan, including any necessary proposed legislation, which shall eliminate duplicative services, but shall not diminish, abridge, or eliminate any of the currently existing services relating to highways, public and private roads, and parks whether provided by the State or counties.

SECTION 3. The governor and mayors shall submit to the legislature:

- (1) A report of their findings and recommendations on eliminating duplication of all government services at the state and county levels with respect to highway and parks services to the legislature not later than November 30, 1998; and
- (2) A final report, including the final plan, on eliminating duplication of all government services at the state and county levels not later than November 30, 1999.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

ACT 224

H.B. NO. 2648

A Bill for an Act Relating to Workers' Compensation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to implement recommendations of the economic revitalization task force convened by the governor, the president of the senate, and the speaker of the house of representatives, relating to workers' compensation.

SECTION 2. Section 386-3, Hawaii Revised Statutes, is amended to read as follows:

**“§386-3 Injuries covered.** (a) If an employee suffers personal injury either by accident arising out of and in the course of the employment or by disease proximately caused by or resulting from the nature of the employment, the employee's employer or the special compensation fund shall pay compensation to the employee or the employee's dependents as [hereinafter] provided[.] in this chapter.

Accident arising out of and in the course of the employment includes the wilful act of a third person directed against an employee because of the employee's employment.

(b) No compensation shall be allowed for an injury incurred by an employee by the employee's wilful intention to injure oneself or another by actively engaging in any unprovoked non-work related physical altercation other than in self defense, or by the employee's intoxication.

(c) A claim for mental stress resulting solely from disciplinary action taken in good faith by the employer shall not be allowed; provided that if a collective bargaining agreement or other employment agreement specifies a different standard than good faith for disciplinary actions, the standards set in the collective bargaining agreement or other employment agreement shall be applied in lieu of the good faith standard. For purposes of this subsection, the standards set in the collective bargaining agreement or other employment agreement shall be applied in any proceeding before the department, the appellate board, and the appellate courts.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

## ACT 225

H.B. NO. 2701

A Bill for an Act Relating to Telecommunication.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§269- Changes in subscriber carrier selections; prior authorization required; penalties for unauthorized changes.** (a) No telecommunications carrier shall initiate a change in a subscriber’s selection or designation of a long-distance carrier without first receiving:

- (1) A letter of agency or letter of authorization;
- (2) An electronic authorization by use of a toll-free number;
- (3) An oral authorization verified by an independent third party; or
- (4) Any other prescribed authorization;

provided that the letter or authorization shall be in accordance with verification procedures that are prescribed by the Federal Communications Commission or the public utilities commission. For purposes of this section, “telecommunications carrier” does not include a provider of commercial mobile radio service as defined by 47 United States Code section 332(d)(1).

(b) Upon a determination that any telecommunications carrier has engaged in conduct that is prohibited in subsection (a), the public utilities commission shall order the carrier to take corrective action as deemed necessary by the commission and may subject the telecommunications carrier to administrative penalties pursuant to section 269-28. Any proceeds from administrative penalties collected under this section shall be deposited into the public utilities commission special fund.

The commission, if consistent with the public interest, may suspend, restrict, or revoke the registration, charter, or certificate of the telecommunications carrier, thereby denying, modifying, or limiting the right of the telecommunications carrier to provide service in this State.

(c) The commission shall adopt rules, pursuant to chapter 91, necessary for the purposes of this section. The commission may notify customers of their rights under these rules.’’

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

## ACT 226

H.B. NO. 2847

A Bill for an Act Relating to Solid Waste Management.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 342H-1, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of “permit” to read:

““Permit” means written authorization from the director to construct, modify, and operate any solid waste [disposal] management system or any component of any solid waste [disposal] management system. A permit authorizes the grantee to construct, modify, and operate any solid waste [disposal] management system in a manner or amount, not forbidden by this chapter, or by rules adopted pursuant to this chapter but requiring review by the department.”

2. By amending the definition of “solid waste disposal system” to read:

““Solid waste [disposal] management system” means a system for the storage, processing, treatment, transfer, or disposal of solid waste.”

SECTION 2. Section 342H-30, Hawaii Revised Statutes, is amended to read as follows:

**“§342H-30 Prohibition.** (a) No person, including any public body, shall engage in the operation of an open dump [without first securing approval in writing from the director].

(b) No person, including any public body, shall operate a solid waste [disposal] management system without first securing approval in writing from the director.

(c) No person, including any public body, shall discard, dispose of, deposit, discharge, or dump solid waste, or by contract or otherwise arrange directly or indirectly for the disposal of solid waste in an amount greater than one cubic yard in volume anywhere other than a permitted solid waste [disposal] management system without the prior written approval of the director. This prohibition shall not be deemed to supersede any other disposal prohibitions established under federal, state, or county law, regulation, rule, or ordinance.

(d) [A] In addition to any other penalty provided by law, a person who knowingly violates or knowingly consents to the violation of this section shall be subject to [criminal] one or more of the following penalties:

- (1) Criminal penalties of not more than \$25,000 for each separate offense[.];
- (2) Not more than thirty days imprisonment for each offense; or
- (3) Revocation or suspension by court order of any contractor’s license to operate as a contractor or any applicable certificate of authorization from the public utilities commission.

Each day of a violation shall constitute a separate offense.”

SECTION 3. Section 342H-31, Hawaii Revised Statutes, is amended to read as follows:

**“[[§342H-31]] Rules; specific.** The director may establish by rule the criteria for siting design, construction, financial responsibility, manifest, and operation of solid waste [treatment, storage, transport, and disposal] management systems.”

SECTION 4. Section 342H-32, Hawaii Revised Statutes, is amended to read as follows:

**“[[§342H-32]] Plans and [Reports.] reports.<sup>1</sup>** The director may require complete and detailed plans or reports on existing solid waste [disposal] management systems and of any proposed addition to, modification of, or alteration of any such systems [which] that contain the information requested by the director in the form prescribed by the director. The plans or reports shall be made by a



competent person acceptable to the director and at the expense of such applicant or owner.”

SECTION 5. Section 342H-35, Hawaii Revised Statutes, is amended to read as follows:

“[~~§~~342H-35] **Research, educational, and training programs.** The director may:

- (1) Conduct and supervise research programs for the purpose of determining the sources of solid waste, effects, and hazards of pollution associated with [disposal] solid waste management systems;
- (2) With the approval of the governor, cooperate with, and receive money from the federal government or any political subdivision of the State, or from private sources for the study and control of solid waste pollution; and
- (3) Conduct and supervise state educational and training programs on solid waste [disposal] management systems, including the preparation and distribution of information relating to solid waste pollution.”

SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**Note**

1. So in original.

**ACT 227**

H.B. NO. 3033

A Bill for an Act Relating to Corrections.

*Be It Enacted by the Legislature of the State of Hawaii:*

**Part I**

SECTION 1. The legislature finds that the sum of \$5,000,000 was appropriated in fiscal year 1997-1998 for transportation and housing 300 inmates in mainland correctional facilities. The annual appropriation was increased to \$10,000,000 in fiscal year 1998-1999, and it is estimated that by fiscal year 1999-2000 more than one thousand two-hundred inmates will have to be transported and housed in mainland correctional facilities at a cost of \$20,000,000 per year. There are, however, signs that mainland prison operators may not be able to continue housing Hawaii inmates as they have done in the past.

The legislature also finds that the difficulties of siting and building new correctional facilities is clear—no one wants a prison with violent criminals (e.g., sex offenders) built in their backyard. Consequently, the renovation and expansion of existing facilities has been the primary means of adding new bed spaces to the Hawaii prison system for many years.

SECTION 2. The purpose of this bill is to allow the governor to enter into contracts for the development of a privately-constructed correctional facility on public or private property and for the lease or purchase of the correctional facility by the State. This bill will also authorize the governor to negotiate private in-state correctional facilities or turnkey correctional facilities. New provisions will require the department of public safety to enter into partnership with the affected community on the site selection process to alleviate negativity surrounding the development of a prison facility. Added provisions will further extend the authority of the director of public safety to allow the release of pre-trial inmates to prevent overcrowding in our state correctional facilities within certain parameters as specified in law.

Part II

SECTION 3. Section 26-14.6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The department of public safety shall be responsible for the formulation and implementation of state policies and objectives for correctional, security, law enforcement, and public safety programs and functions, for the administration and maintenance of all public or private correctional facilities and services, for the service of process, and for the security of state buildings.”

SECTION 4. Section 323-1, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§323-1**~~]]~~ **Contracts with territories and possessions of the United States.** The governor is authorized to enter into and execute contracts in the name of the State with territories, possessions, and other areas in the Pacific Ocean region [which] that are under the jurisdiction of the United States, regarding the use of health and public or private correctional facilities of the State on a space available basis; provided that any such contract shall provide for the payment of costs to the State.”

SECTION 5. Chapter 353, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

“**§353- Contracts for construction of correctional facilities by private entities.** The governor may enter into and execute contracts in the name of the State with any private entity to construct and then lease or purchase correctional facilities on public or private lands for the benefit of the State.

**§353- Development of in-state correctional facilities.** Notwithstanding any other law to the contrary, the governor, with the assistance of the director, may negotiate with any person for the development of private in-state correctional facilities or public in-state turnkey correctional facilities, to reduce prison overcrowding. Any development proposal shall address the construction of the facility separate from the operation of the facility and shall consider and include:

- (1) The percentage of low, medium, and high security inmates and the number of prison beds needed to incarcerate each of the foregoing classes of inmates;
- (2) The facility’s impact on existing infrastructure, and an assessment of improvements and additions that will be necessary;
- (3) The facility’s impact on available modes of transportation, including airports, roads, and highways; and

(4) A useful life costs analysis.

For the purposes of this section, “useful life costs” means an economic evaluation that compares alternate building and operating methods and provides information on the design, construction methods, and materials to be used with respect to efficiency in building maintenance and facilities operation.

**§353- Community partnering.** Regardless of the method for funding new prison facilities, the department of public safety shall develop and implement a community partnering process to be incorporated into the request for proposal; provided further that a community benefit and enhancement package shall be developed by the department and the affected community to mitigate the negative aspects of building a prison facility in the community; provided further that the benefit and enhancement package may include, but is not limited to, infrastructure improvements, job training programs or improvements to schools and health care facilities; social programs, and other government functions.”

### Part III

SECTION 6. Act 305, Session Laws of Hawaii 1993, as amended by Act 195, Session Laws of Hawaii 1994, as amended by Act 156, Session Laws of Hawaii 1995, as amended by Act 216, Session Laws of Hawaii 1996, is amended by amending section 1 to read as follows:

“SECTION 1. Chapter 353, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§353- Release of [pretrial] pre-trial inmates to prevent overcrowding.** (a) Notwithstanding chapter 804 and any other law to the contrary and except as provided in subsection (b), the director or a designee of the director may order the release of [pretrial] pre-trial inmates on recognizance to prevent or relieve overcrowding when a community correctional center has reached capacity, as determined by the director. The director’s order shall supersede and have the same force and effect as an order entered by a court pursuant to chapter 804. A copy of the director’s order shall be filed with the court in which the charge against the [pretrial] pre-trial inmate is pending.

(b) No [person] pre-trial inmate who has been:<sup>1</sup>

- (1) [denied] Denied bail or whose bail has been set at more than \$10,000 pursuant to chapter 804[, or who has been];
- (2) [charged] Charged with or convicted of or is on probation or parole for a serious crime, as defined in section 804-3, or for a crime involving violence against a person[.];
- (3) Found to be mentally defective or mentally incapacitated pursuant to section 707-700;
- (4) Convicted of three or more counts of contempt of court within the twelve month period immediately preceding the inmate’s present detention;
- (5) Arrested three or more times within the twelve month period immediately preceding the inmate’s present detention; or
- (6) Charged with a class C felony or misdemeanor offense involving risk to public safety as determined by the director or a designee of the director,

shall be eligible for release pursuant to this section.

(c) Prior to the release of any inmate pursuant to this section, the director or a designee of the director shall notify the prosecuting authority that the inmate will be released pursuant to this section.

(d) The power to release a [pretrial] pre-trial inmate pursuant to this section is granted solely for the purpose of managing the population of the community correctional centers and nothing in this section shall be construed as granting any person the right to be released. An order releasing a [pretrial] pre-trial inmate pursuant to this section shall not operate to dismiss or otherwise terminate any charges then pending against the [pretrial] pre-trial inmate.

(e) The State, its officers, and employees, shall not be subject to any civil liability or penalty for any error in judgment or discretion made in good faith and upon reasonable grounds in any action taken or omitted by the State, its officers, and employees, in an official capacity under this section.

(f) The director shall adopt rules in accordance with chapter 91 for the release of [pretrial] pre-trial inmates pursuant to this section.

**§353- Terms and conditions of release; violations; sanctions.** (a) A [pretrial] pre-trial inmate released pursuant to section 353- shall be subject to the conditions stated in section 804-7.4. In addition, the director may impose any of the conditions which a court is authorized to impose pursuant to section 804-7.1 and shall impose any conditions contained in any court order superseded by the director's order.

(b) Every [pretrial] pre-trial inmate released under this section shall be subject to the express condition, to be set forth in the official written notification of release, that release may be revoked by order of the director or a designee of the director in the event that the [pretrial] pre-trial inmate violates any terms or conditions of the release.

Upon receipt of specific information from an intake service center worker that a [pretrial] pre-trial inmate has violated any of the terms or conditions of the release, the director or a designee of the director may order the arrest and temporary return to custody of the [pretrial] pre-trial inmate for the purpose of ascertaining whether or not there is sufficient cause to warrant the revocation of the [pretrial] pre-trial inmate's release under section 353- . The arrest order shall state the alleged violation which gave rise to its issuance.

Upon the [retaking] remanding of the [pretrial] pre-trial inmate into custody, hearing on the alleged violation shall be conducted promptly for the purpose of ascertaining whether or not there is sufficient cause to warrant the revocation of the [pretrial] pre-trial inmate's release. The [pretrial] pre-trial inmate shall have, with respect to the revocation hearing, those rights set forth in section 706-670(3).

If sufficient cause for the alleged violation of terms or conditions of release is found at the hearing, the director or a designee of the director may impose different or additional conditions on the [pretrial] pre-trial inmate's release or revoke the [pretrial] pre-trial inmate's release. If sufficient cause is not found, the [pretrial] pre-trial inmate shall be released from custody subject to all of the original terms and conditions of release.

Notice of reincarceration shall be filed with the court.”

SECTION 7. Act 305, Session Laws of Hawaii 1993, as amended by Act 195, Session Laws of Hawaii 1994, as amended by Act 156, Session Laws of Hawaii 1995, as amended by Act 216, Session Laws of Hawaii 1996, is amended by amending section 2 to read as follows:

“SECTION 2. No less than twenty days prior to the convening of the regular session of the legislature in each year from 1994 through [1998,] 1999, the director shall report the progress of the program, and make recommendations for further legislative action.”

SECTION 8. Act 195, Session Laws of Hawaii 1994, as amended by Act 156, Session Laws of Hawaii 1995, as amended by Act 216, Session Laws of Hawaii 1996, is amended by amending section 2 to read as follows:

“SECTION 2. No later than twenty days prior to the convening of the regular session in each year from 1995 through [1998,] 1999, the director shall submit a written report to the legislature on the recidivism rate of [pretrial] pre-trial inmates released under this program.”

SECTION 9. Act 305, Session Laws of Hawaii 1993, as amended by Act 195, Session Laws of Hawaii 1994, as amended by Act 156, Session Laws of Hawaii 1995, as amended by Act 216, Session Laws of Hawaii 1996, is amended by amending section 4 to read as follows:

“SECTION 4. This Act shall take effect on July 1, 1993, and shall be repealed on June 30, [1998.] 1999.”

SECTION 10. Act 195, Session Laws of Hawaii 1994, as amended by Act 156, Session Laws of Hawaii 1995, as amended by Act 216, Session Laws of Hawaii 1996, is amended by amending section 4 to read as follows:

“SECTION 4. This Act shall take effect upon its approval, and shall be repealed on June 30, [1998.] 1999.”

SECTION 11. The Department of Public Safety shall submit a report, twenty days prior to the convening of the regular sessions of 1999 and 2000, regarding the status of the negotiations for the development of in-state correctional facilities pursuant to section 353- , and the status of the implementation of community partnering pursuant to section 353- .

SECTION 12. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 13. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**Notes**

1. Colon should be underscored.
2. Edited pursuant to HRS §23G-16.5.

**ACT 228**

H.B. NO. 3403

A Bill for an Act Relating to Offenses Against Property.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 708-831, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of theft in the second degree if the person commits theft:

- (a) Of property from the person of another;
- (b) Of property or services the value of which exceeds \$300;

- (c) Of an aquaculture product or part thereof from premises that is fenced or enclosed in a manner designed to exclude intruders [and] or there is prominently displayed on the premises a sign or signs sufficient to give notice and reading [substantially] as follows: [“It is a crime to take or remove products from these premises, Hawaii Revised Statutes section 708-831, theft in the second degree. Violators will be prosecuted.”]; “Private Property”; or
- (d) Of agricultural equipment, supplies, or products, or part thereof, the value of which exceeds \$100 but does not exceed \$20,000, from premises that are fenced, enclosed, or secured in a manner designed to exclude intruders [and] or there is prominently displayed on the premises a sign or signs sufficient to give notice and reading [substantially] as follows: [“It is a crime to take or remove agricultural equipment, supplies, or products from these premises, Hawaii Revised Statutes section 708-831, theft in the second degree. Violators will be prosecuted.”] “Private Property.” The sign or signs, containing letters not less than two inches in height, shall be placed [not more than 1000 feet apart] along the boundary line of the land in a manner and in such position as to be clearly noticeable from outside the boundary line.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

## ACT 229

H.B. NO. 3468

A Bill for an Act Relating to Hawaii Health Systems Corporation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 323F, Hawaii Revised Statutes, is amended by adding three<sup>1</sup> new sections to be appropriately designated and to read as follows:

**“§323F-A Executive public health facility management advisory committee; establishment.** (a) There is established within the corporation an executive public health facility management advisory committee to consist of the chairpersons of each of the five regional public health facility management advisory committees. The executive committee shall, through its chairperson, represent the interests of all regional committees on the corporation board.

(b) The executive committee shall select its own chairperson to serve on the corporation board and shall adopt rules governing the terms of office and removal from the corporation board. The executive committee shall also adopt rules governing the terms of office for each of the five regional committee chairpersons. The executive committee may also adopt other rules as it may consider necessary for the conduct of its business.

(c) The members of the executive committee shall serve without compensation, but shall be reimbursed for reasonable expenses incurred in the performance of their duties.

**§323F-B Peer review and credentialing.** Corporation board or other committee meetings pertaining to peer review and credentialing matters shall not be subject to part I of chapter 92. Peer review activities shall be subject to the provisions of chapters 663 and 671D and all other provisions and restrictions of medical peer review committees established by state law.”

SECTION 2. Section 76-121, Hawaii Revised Statutes, is amended to read as follows:

“**[§76-121] Employees of the Hawaii health systems corporation.** It is the intent of the legislature that the personnel of the Hawaii health systems corporation shall constitute a separately administered part of the system of personnel administration established by this chapter and chapter 77, unless specifically exempted by this chapter or any other law; provided that:

- (1) The Hawaii health systems corporation shall have a status coequal with the executive branch of the State and with the several counties for purposes of:
  - (A) Developing a position classification plan;
  - (B) Formulating personnel rules; and
  - (C) Administrating the Hawaii health systems corporation personnel system, including classification, reclassification, allocation, and reallocation of a particular position; the publication of a vacancy announcement; the examination of applicants; and the preparation of eligible lists;
- (2) In the development of a position classification plan, the formulation of personnel rules and regulations, and the administration of the Hawaii health systems corporation personnel system, the corporation chief executive officer or the corporation chief executive officer’s designee shall consult with the director of human resources development;
- (3) Any action of the corporation chief executive officer or the corporation chief executive officer’s designee including:
  - (A) The classification, reclassification, allocation, and reallocation of a particular position;
  - (B) The publication of a vacancy announcement;
  - (C) The examination of applicants;
  - (D) The preparation of an eligible list; and
  - (E) Appeals from suspensions, dismissals, and demotions not covered by collective bargaining;

may be appealed by any person, employee, or the exclusive bargaining unit representative to the Hawaii health systems corporation personnel appeals board. The board shall be composed of three members, one representative from the department of human resources development, one representative of the Hawaii health systems corporation, and one appropriate exclusive bargaining unit representative. Section 26-34 shall not apply to the members of the Hawaii health systems corporation personnel appeals board. The board shall sit as an appellate body on matters within the jurisdiction of the Hawaii health systems corporation with equal authority as the civil service commission established by section 26-5; and

- (4) Nothing in chapters 76 and 77 shall be construed to require [the approval of] the governor or any executive agency for the Hawaii health systems corporation to [establish such] approve positions in the corporation [as may be authorized and funded by the legislature].”

SECTION 3. Section 82-6, Hawaii Revised Statutes, is amended to read as follows:

**“[[§82-6]] Judiciary[;] and the Hawaii health systems corporation; powers and duties.** All of the powers and duties assigned in this chapter to the governor or the director of human resources development [shall], with respect to the judiciary, shall be assigned to the chief justice of the supreme court or the administrative director of the courts[.], and with respect to the Hawaii health systems corporation, shall be assigned to the chief executive officer of the Hawaii health systems corporation or a designee.”

SECTION 4. Section 323F-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) [Twelve] Ten members of the corporation board shall be appointed by the governor as follows:

- (1) One member from region I who resides in the city and county of Honolulu;
- (2) One member from region II who resides in the county of Kauai;
- (3) One member from region III who resides in the county of Maui;
- (4) One member from region IV who resides in the eastern section of the county of Hawaii;
- (5) One member from region V who resides in the western section of the county of Hawaii;
- (6) One member from region II who resides in the county of Kauai or from region III who resides in the district of Hana or on the island of Lanai; provided that in no event shall the member be appointed from the same region for two consecutive terms; and
- (7) [Six] Four at-large members who reside in the State.

The eleventh member shall be the chairperson of the executive public health facility management advisory committee, who shall serve as an ex officio, voting member.

The twelfth member, who shall serve as a voting member, shall be a physician with active medical staff privileges at one of the corporation’s public health facilities. The physician member shall serve a term of two years. The initial physician member shall be from region II, and subsequent physician members shall come from regions IV, III, and V respectively. The physician member position shall continue to rotate in this order. The physician member shall be appointed to the corporation board by a simple majority vote of the members of the executive public health facility management advisory committee from a list of qualified nominees submitted by the public health facility management advisory committee for the region from which the physician member is to be chosen. If for any reason a physician member is unable to serve a full term, the remainder of that term shall be filled by a physician from the same region.

The thirteenth member shall be the director of health or the director’s designee, who shall serve as an ex officio, voting member.

Appointments to the corporation board, with the exception of the chairperson of the executive public health facility management advisory committee and the regional physician member, shall be made by the governor, subject to confirmation



by the senate pursuant to section 26-34. Prior to the transfer date, the public health facility management advisory committees appointed pursuant to section 323-66 for each county may recommend names to the governor for each position on the corporation board designated for a region which corresponds to its county. After the transfer date, the public health facility management advisory committees appointed pursuant to section 323F-10 for each region may make such recommendations to the governor. The appointed board members shall serve for a term of four years; provided that upon the initial appointment of the first ten members:

- (1) Two at-large members shall be appointed for a term of two years;
- (2) Three at-large members shall be appointed for a term of three years; and
- (3) Five regional members shall be appointed for a term of four years.

Any vacancy shall be filled in the same manner provided for the original appointments. The corporation board shall elect its own chair from among its members.”

SECTION 5. Section 323F-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) All business of the corporation board shall be conducted at a regular or special meeting at which a quorum is present, consisting of at least a majority of the directors then in office. Any action of the corporation board shall require the affirmative vote of a majority of those present and voting at the meeting; except that a vote of two-thirds of the members of the corporation board then in office shall be required for any of the following actions:

- (1) Removal by the corporation board of one of its members[;], with the exception of the eleventh and twelfth members set forth in section 323F-3, who may only be removed pursuant to sections 323F-A and 323F-10;
- (2) Amendment by the corporation board of its bylaws;
- (3) Hiring or removing the chief executive officer of the corporation; and
- (4) Any other actions as provided by the corporation bylaws.”

SECTION 6. Section 323F-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Notwithstanding any other law to the contrary, the corporation shall have and exercise the following duties and powers:

- (1) Developing its own policies, procedures, and rules necessary or appropriate to plan, operate, manage, and control the system of public health facilities and services without regard to chapter 91;
- (2) Evaluating the need for health facilities and services;
- (3) Entering into and performing any contracts, leases, cooperative agreements, or other transactions whatsoever that may be necessary or appropriate in the performance of its purposes and responsibilities, and on terms it may deem appropriate, with either:
  - (A) Any agency or instrumentality of the United States, or with any state, territory, or possession, or with any subdivision thereof; or
  - (B) Any person, firm, association, or corporation, whether operated on a for-profit or not-for-profit basis;
 provided that the transaction furthers the public interest;
- (4) Conducting activities and entering into business relationships as the corporation board deems necessary or appropriate, including but not limited to:

- (A) Creating nonprofit corporations, including but not limited to charitable fund-raising foundations, to be controlled wholly by the corporation or jointly with others;
  - (B) Establishing, subscribing to, and owning stock in business corporations individually or jointly with others; and
  - (C) Entering into partnerships and other joint venture arrangements, or participating in alliances, purchasing consortia, health insurance pools, or other cooperative arrangements, with any public or private entity; provided that any corporation, venture, or relationship entered into under this section furthers the public interest; provided further that this paragraph shall not be construed to authorize the corporation to abrogate any responsibility or obligation under paragraph (15);
- (5) Participating in and developing prepaid health care service and insurance programs and other alternative health care delivery programs, including programs involving the acceptance of capitated payments or premiums that include the assumption of financial and actuarial risk;
  - (6) Executing, in accordance with all applicable bylaws, rules, and laws, all instruments necessary or appropriate in the exercise of any of the corporation's powers;
  - (7) Preparing and executing all corporation budgets, policies, and procedures;
  - (8) Setting rates and charges for all services provided by the corporation without regard to chapter 91;
  - (9) Developing a corporation-wide hospital personnel system that is subject to chapters 76, 77, and 89;
  - (10) Developing the corporation's capital and strategic plans;
  - (11) Suing and being sued; provided that the corporation shall enjoy the same sovereign immunity available to the State;
  - (12) Making and altering corporation board bylaws for its organization and management without regard to chapter 91;
  - (13) Adopting rules, without regard to chapter 91, governing the exercise of its powers and the fulfillment of its purpose under this chapter;
  - (14) Entering into any contract or agreement whatsoever, not inconsistent with this chapter or the laws of this State, and authorizing the corporation chief executive officer to enter into all contracts, execute all instruments, and do all things necessary or appropriate in the exercise of the powers granted in this chapter, including securing the payment of bonds;
  - (15) Issuing revenue bonds subject to the approval of the legislature; provided that all revenue bonds shall be issued pursuant to part III, chapter 39;
  - (16) Reimbursing the state general fund for debt service on general obligation bonds or reimbursable general obligation bonds issued by the State for the purposes of the corporation;
  - (17) Pledging or assigning all or any part of the receipts and revenues of the corporation for purposes of meeting bond or health systems liabilities;
  - (18) Owning, purchasing, leasing, exchanging, or otherwise acquiring property, whether real, personal or mixed, tangible or intangible, and of any interest therein, in the name of the corporation, which property is not owned or controlled by the State but is owned or controlled by the corporation;
  - (19) Maintaining, improving, pledging, mortgaging, selling, or otherwise holding or disposing of property, whether real, personal or mixed,

- tangible or intangible, and of any interest therein, at any time and manner, in furtherance of the purposes and mission of the corporation; provided that the corporation legally holds or controls the property in its own name; and provided further that the corporation shall not sell, assign, lease, hypothecate, mortgage, pledge, give, or dispose of a substantial portion of its property of any nature;
- (20) Purchasing insurance and creating captive insurers in any arrangement deemed in the best interest of the corporation, including but not limited to funding and payment of deductibles and purchase of reinsurance;
  - (21) Acquiring by condemnation, pursuant to chapter 101, any real property required by the corporation to carry out the powers granted by this chapter;
  - (22) Depositing any moneys of the corporation in any banking institution within or without the State, and appointing, for the purpose of making deposits, one or more persons to act as custodians of the moneys of the corporation;
  - (23) Contracting for and accepting any gifts, grants, and loans of funds, property, or any other aid in any form from the federal government, the State, any state agency, or any other source, or any combination thereof, and complying, subject to this chapter, with the terms and conditions thereof;
  - (24) Providing health and medical services for the public directly or by agreement or lease with any person, firm, or private or public corporation or association through or in the health facilities of the corporation or otherwise;
  - (25) Approving medical staff bylaws, rules, and medical staff appointments and reappointments for all public health facilities, including without limitation, determining the conditions under which a health professional may be extended the privilege of practicing within a health facility, and adopting and implementing reasonable rules, without regard to chapter 91, for the credentialing and peer review of all persons and health professionals within the facility;
  - (26) (A) Investing any funds not required for immediate disbursement in property or in securities that meet the standard for investments established in chapter 88 as provided by the corporation board; provided the investment assists the corporation in carrying out its public purposes; selling from time to time securities thus purchased and held, and depositing any securities in any bank or financial institution within or without the State. Any funds deposited in a banking institution or in any depository authorized in this section shall be secured in a manner and subject to terms and conditions as the corporation board may determine, with or without payment of any interest on the deposit, including, without limitation, time deposits evidenced by certificates of deposit. Any bank or financial institution incorporated under the laws of this State may act as depository of any funds of the corporation and may issue indemnity bonds or may pledge securities as may be required by the corporation board.
  - (B) Notwithstanding subparagraph (A), contracting with the holders of any of its notes or bonds as to the custody, collection, securing, investment, and payment of any moneys of the corporation and of any moneys held in trust or otherwise for the payment of notes or bonds and carrying out the contract. Moneys held in trust or otherwise for the payment of notes or bonds or in any way to

secure notes or bonds, and deposits of such moneys, may be secured in the same manner as moneys of the corporation, and all banks and trust companies are authorized to give security for the deposits;

- (27) Entering into any agreement with the State including but not limited to contracts for the provision of goods, services, and facilities in support of the corporation's programs, and contracting for the provision of services to or on behalf of the State;
- (28) Having a seal and altering the same at pleasure;
- (29) Waiving, by means that the corporation deems appropriate, the exemption from federal income taxation of interest on the corporation's bonds, notes, or other obligations provided by the Internal Revenue Code of 1986, as amended, or any other federal statute providing a similar exemption;
- (30) Developing internal policies and procedures for the procurement of goods and services, consistent with the goals of public accountability and public procurement practices, but not subject to chapter 103D. However, where possible, the corporation is encouraged to use the provisions of chapter 103D; provided that the use of one or more provisions of chapter 103D shall not constitute a waiver of the exemption [of] from chapter 103D and shall not subject the corporation to any other provision of chapter 103D;
- (31) Authorizing and establishing positions;
- (31) (32) Calling upon the attorney general for such legal services as the corporation may require; and
- (32) (33) Having and exercising all rights and powers necessary or incidental to or implied from the specific powers granted in this chapter, which specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this chapter."

SECTION 7. Section 323F-8, Hawaii Revised Statutes, is amended to read as follows:

**“[[§323F-8]] Chief executive officer; exempt positions.** (a) The corporation board may appoint, exempt from chapters 76 and 77 and section 26-35(4), a chief executive officer of the corporation whose salary shall be set by the corporation board. The chief executive officer may also appoint up to eighteen other personnel, exempt from chapters 76, 77, and 89, to work directly for the chief executive officer and the corporate board.

(b) The corporation board or its designee may discharge its exempt personnel with or without cause; provided that removal without cause shall not prejudice any contract rights of personnel.

(c) The corporation's chief executive officer or the chief executive officer's designee may appoint, exempt from chapters 76, 77, and 89, hospital administrators, assistant administrators, directors of nursing, medical directors, and staff physicians, to facilitate the management of facilities within the corporation; provided that directors of nursing appointed before July 1, 1998, may maintain their civil service status as provided in chapters 76 and 77, by so communicating in writing to the chief executive officer by October 31, 1998. Hospital administrators and assistant administrators appointed before July 1, 1983, may maintain their permanent civil service status as provided in chapters 76 and 77.”

SECTION 8. Section 323F-10, Hawaii Revised Statutes, is amended to read as follows:

**“[[§323F-10]] Regional public health facility management advisory committees.** (a) On the transfer date, there shall be established within the corporation for each region, a public health facility management advisory committee to consist of nine members initially to be appointed by the chief executive officer of the corporation with the advice of the hospital administrators of the facilities in the affected regions. The members shall serve for a term of four years; provided that upon the initial appointment of the members, two shall be appointed for a term of one year, two for a term of two years, two for a term of three years, and three for a term of four years.

Following the initial appointments by the chief executive officer of the corporation board, any vacancies on a regional committee shall be filled by a simple majority vote of the members of the executive committee from a list of qualified nominees submitted by the regional committee in which the vacancy occurred. If a regional committee vacancy remains unfilled for more than thirty days, that vacancy may be filled by the chief executive officer of the corporation.

Each regional management advisory committee shall include medical and health care providers, consumers, and knowledgeable individuals in other appropriate areas such as business and law; provided that at least one member shall be a physician with active medical staff privileges at one of the region’s public health facilities. At least three members of the committee shall be consumers.

The management advisory committee for the East Hawaii region shall have three members who reside in the Ka’u district, three members who reside in the Hamakua/North Hilo districts, and three members who reside in the South Hilo/Puna districts. The management advisory committee for the West Hawaii region shall have not less than three members who reside in the North Kohala/South Kohala districts.

Each regional committee shall select its own chairperson and vice chairperson and [may] shall adopt rules governing the terms for removal of its chairperson from the executive management advisory committee. In the event of a regional committee voting to remove its chairperson who concurrently sits on the corporation board, that vote shall be unanimous. In the event of a regional committee voting to remove its physician member from the corporation board, that vote shall also be unanimous. Each regional committee may also adopt [such] other rules as it may consider necessary for the conduct of its business.

The members of the regional committees shall serve without compensation, but shall be reimbursed for traveling expenses incurred in the performance of their duties. The corporation shall provide for the necessary expenses of the committees; provided that no expenses may be incurred without prior authorization by the chief executive officer.

(b) Each regional committee shall sit in an advisory capacity to the chief executive officer on matters concerning the formulation of regional operational and capital improvement budgets, and the planning, construction, improvement, maintenance, and operation of public health facilities within its respective jurisdiction and shall sit in an advisory capacity to the governor on matters concerning the nominees for positions on the corporation board. Nothing in this section shall be construed as precluding or preventing the committees from coordinating their efforts and activities with the facility administrators within their counties.

(c) Each regional committee may prepare a report for inclusion with the corporation’s annual report and audit which shall include[,] but not be limited to[,] comments and analyses on the corporation’s regional operational and capital improvement budgets for its respective region.”

SECTION 9. Act 262, Session Laws of Hawaii 1996, is amended by amending subsections (a) through (c) of section 22 to read as follows:

“(a) Within [two] three years after the [Transfer] transfer date, the corporation in carrying out its duties and responsibilities, shall enter into appropriate agreements with the State to utilize the facilities and real property under the control of the division prior to the effective date of this Act. Each agreement shall be long standing and require compensation of a nominal amount for the use of any facilities or real property. Until the agreements are finalized, the corporation shall be entitled to use the facilities and real property of the division of community hospitals for hospital and health care purposes.

(b) State agencies shall continue to provide to the corporation, without charge for not more than [two] three years after the [Transfer] transfer date, services that the state agencies provided to the division until the corporation enters into a written contract with the state agencies or chooses to terminate the services.

(c) The corporation shall assume and honor all collective bargaining agreements applicable to employees of the division as of the [Transfer] transfer date. Upon expiration of those agreements, the corporation may [as appropriate and allowable,] negotiate [collective bargaining agreements or] sub-agreements under chapter 89, Hawaii Revised Statutes, to address its needs for efficiency and effectiveness. Notwithstanding any law to the contrary, the corporation may negotiate with the applicable exclusive representative specific terms and conditions of employment, including differentials, covering the employees of the corporation through a memorandum of agreement except for wage increases and contributions to the Hawaii public employees health fund which are normally negotiated under chapter 89, Hawaii Revised Statutes. Any memorandum of agreement shall be executed by the corporation and the applicable exclusive representative and shall have the same expiration date as the applicable collective bargaining agreement negotiated under chapter 89, Hawaii Revised Statutes.”

SECTION 10. The Hawaii health systems corporation shall establish a working group to identify and describe the liabilities assumed by the corporation as of the transfer date. The working group shall include the departments of accounting and general services and budget and finance, at a minimum, and any other state agency identified by the department of budget and finance. The discussions shall include but not be limited to:

- (1) Debts owed to the State by the corporation;
- (2) Any reparations issued by the office of Hawaiian affairs;
- (3) Pension fund and insurance payments for employees who retired prior to the transfer date;
- (4) Any civil penalties, fines, and judgments that may have arisen due to the division of community hospitals' operation prior to the transfer date; and
- (5) Vacation and sick leave benefits accrued prior to the transfer date.

SECTION 11. The Hawaii health systems corporation shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 1999.

The report shall:

- (1) Identify all delinquent accounts owed to the Hawaii health systems corporation that were handled by the corporation and the disposition of those accounts;

- (2) Identify and make recommendations concerning the liabilities assumed by the corporation as of the transfer date that may require appropriations or statutory change; and
- (3) Include the position of the corporation, as well as the position on the issues of the departments and agencies participating in the working group.

SECTION 12. The two at-large positions on the corporation board which are eliminated by section 4 of this Act shall be those positions whose terms expire on June 30, 1998.

SECTION 13. In codifying the new sections added by section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections of this Act.

SECTION 14. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 15. This Act shall take effect on June 1, 1998; provided that section 4 shall take effect on June 30, 1998.

(Approved July 20, 1998.)

**Notes**

- 1. So in original.
- 2. Edited pursuant to HRS §23G-16.5.

**ACT 230**

S.B. NO. 2213

A Bill for an Act Relating to State Government.

*Be It Enacted by the Legislature of the State of Hawaii:*

**PART I.**

SECTION 1. The purpose of this Act is to provide various means of making state government more efficient and more capable of competing in and supporting the efforts of Hawaii's businesses and enterprises to participate and compete successfully in the world's ever-evolving global economy.

This Act is divided into five parts. Part II creates a special committee to begin the task of transforming the State's budgeting, accounting, and procurement systems. The assessment and improvement in the system will set clearer directions in the plans for a privatization process in Part III. Part III establishes a process to facilitate increased public-private competition and partnerships for the provision of services to or on behalf of government. Part IV is intended to ensure that during the development and implementation of a managed competitive process, the State and counties are permitted to contract for necessary goods and services without being disrupted or delayed by lawsuits. Part V provides logistical directions for these efforts.

**PART II.**

SECTION 2. The legislature believes that the state government's budgeting, accounting, and procurement systems should serve as effective tools for the efficient

use of scarce resources in pursuing the goals and objectives of the people of Hawaii by:

- (1) Describing the links between state resources and actions to implement the State's strategies and operating level objectives;
- (2) Focusing on the provision and measurement of outputs and their relationship to outcomes, rather than looking at simple inputs of funds and personnel positions;
- (3) Implementing activity-based costing, including the means of allocating the cost of assets with lives greater than one year over multi-year periods;
- (4) Providing decision-makers and the public with clear and easily-understandable information about resource allocation choices, decisions, and implementation; and
- (5) Providing a means of establishing resource allocation priorities based on desired outcomes and related outputs.

The purpose of this Part is to establish a special committee to begin the task of transforming the State's accounting, procurement, and budgeting systems. This committee shall also develop prototype models for transforming the budgeting and accounting systems of three departments.

This Part also implements recommendations related to the efficient delivery of government services that were made by the economic revitalization task force, which was convened by the governor, the president of the senate, and the speaker of the house of representatives.

SECTION 3. There is created a committee that shall develop and oversee the implementation of plans for the transformation of the State's accounting, procurement, and budgeting systems. With respect to the budgeting system, the committee shall develop and oversee the implementation of a performance-based budgeting system that incorporates quantitative or qualitative indicators to assess the State's budget performance.

The committee shall consist of nine members, one of which shall be the legislative analyst appointed pursuant to chapter 21F, and eight who shall be appointed in the following manner:

- (1) One member shall be appointed by the governor from a list nominated by the president of the senate;
- (2) One member shall be appointed by the governor from a list nominated by the speaker of the house of representatives;
- (3) Two members with budgetary, accounting, financial services, or comparable public accounting experience, shall be appointed by the governor from the public at-large; and
- (4) Four members shall be appointed by the governor from among the members of the governor's cabinet, including the director of finance and the comptroller, or their designees.

The committee shall elect a chairperson and vice-chairperson from among its members. A majority of the members of the committee shall constitute a quorum. The members of the committee shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

SECTION 4. To initiate the implementation of the process of transforming the State's accounting system and the budgeting system to a performance-based budgeting system, the committee shall select three departments that differ in function and organization to develop prototype models of implementation. The three departments shall be selected by January 1, 1999. The committee and the selected



departments shall complete the implementation of their prototype transformations by December 31, 1999.

SECTION 5. The committee shall submit annual reports of its plans, recommendations, and implementing actions to the legislature no fewer than fifteen days before the convening of the regular sessions of 1999, 2000, and 2001.

### PART III.

SECTION 6. There is created a committee that shall develop a managed process that enables state and county governments to implement public-private competition for government services through the managed process that determines whether a particular service can be provided more efficiently, effectively, and economically by a public agency or a private enterprise. The managed process shall consider all relevant costs, identify the types of contracts which may be exempt from the managed process, establish protections for the affected state and county employees, and ensure that civil service laws, merit principles, and collective bargaining laws are not violated. The committee members shall be appointed by the governor within sixty days from the date of this Act.

The members of the committee shall include:

- (1) The director of finance;
- (2) The comptroller;
- (3) The director of human resources development;
- (4) One representative from each of the four major counties to be appointed by the respective mayors;
- (5) Two public-sector union representatives;
- (6) One private-sector union representative;
- (7) Two representatives for private-sector businesses; and
- (8) One representative for nonprofit organizations that is a recipient or is entitled to be a recipient under chapters 42D and 42F, Hawaii Revised Statutes.

The committee shall elect a chairperson and vice-chairperson from among its members. A majority of the members shall constitute a quorum. The department of accounting and general services shall provide administrative support for the committee. Members of the committee shall serve without compensation. The committee shall submit its report, including its recommendations for statutory changes to civil service laws and such other laws as may be necessary to implement the managed process, to the legislature not less than twenty days prior to the convening of the 1999 regular session of the legislature.

### PART IV.

SECTION 7. The purpose of this Part is to address the concerns of the State and counties, private providers of public services, representatives of public and private employees which have been generated in response to the Supreme Court's decision in *Konno v. County of Hawaii*, 85 Haw. 61, 937 P.2d 397 (1997).

The legislature finds that until performance-based budgeting and the process for managed competition are firmly established, the State and counties need clear legislative authorization to maintain their existing contracts and to contract with private entities to provide goods and to perform public services where appropriate. Accordingly, this Part provides legislation to give clear and necessary authority to the State and counties to perform their missions.

The legislature also finds that contracts with private entities should not result in the loss of a job by a covered employee, or the transfer of a covered employee to

another position without adequate training or assistance to maintain the covered employee's ability to continue to perform the duties and responsibilities of the employee's assignments. This Act allows contracting out of services performed by a covered employee and services that were customarily and traditionally performed by covered employees, but prohibits contracts that result in the termination of a covered employee. Covered employees who are not terminated, but who are transferred to another position because of the contract shall be offered retraining or such additional assistance to enable the transferred covered employee to maintain a similar, comparable, or better position in civil service.

The legislature further finds that when the managed process for public-private competition is developed and implemented, state and county employers will be able to choose between keeping public services in-house or outsourcing them. If the public employer's choice is to keep the services in-house based on the managed process, employees who were transferred should be given the opportunity to be restored to their former positions or to remain in the positions to which they were transferred.

Any contract with a private entity that is entered into during the development of the managed process is made subject to a single managed process review.

**SECTION 8.** Except as otherwise provided herein, no existing contract, or contract subsequently executed by a department or agency of the State or county under this Act, shall be void or deemed to be void as being contrary to the merit principles under chapters 76 and 77, Hawaii Revised Statutes, or the collective bargaining laws under chapter 89, Hawaii Revised Statutes. The authority of a department or agency of the State or county to enter into a contract with a private provider, shall not be prevented, restricted, diminished, conditioned, limited, or otherwise qualified by chapters 76, 77, 89, and sections 46-33 and 46-34, Hawaii Revised Statutes.

**SECTION 9.** Prior to the implementation of a managed process pursuant to Section 6 of this Act, when a department or agency of the State or county contracts in accordance with Section 8 of this Act, the department or agency shall provide a one page public statement to their respective directors of personnel, civil service, or human resources development, containing a brief description of the contract and its rationale. For any contract that results in the transfer of any covered employee, the department or agency of the State or county issuing the contract shall give notice of the contract to the exclusive representative of the covered employee who may be transferred because of the contract. The notice of the contract shall be given on the signing of the contract by the parties to the contract.

If a covered employee is transferred to a new or different position because of the contract, the transferred employee shall not be subject to any reduction in pay or loss of seniority, and shall be offered retraining, if necessary to qualify for or perform the duties and responsibilities of the new or different position, or to such additional assistance to enable the transferred employee to maintain a similar, comparable, or better position in the civil service.

**SECTION 10.** Section 8 of this Act shall not be deemed to authorize:

- (1) Any contract with a private entity that directly results in the termination of a covered employee in the state or county service; or
- (2) Any contract with a private entity that directly results in the transfer of a covered employee from a position in civil service to another position in civil service, or to a position that is exempt from civil service, in which the intent of the transfer is to enable the contracting agency to contract the services of the transferred covered employee to a private

entity and to thereafter terminate the public employee without other cause.

For purposes of Sections 8, 9, 10, and 11 of this Act, a "covered employee" means an employee, who is in a state or county position that is not exempt under sections 46-33, 46-34, 76-16, and 76-77, Hawaii Revised Statutes; and "private entity" means individuals, corporations, partnerships, limited liability corporations and partnerships, and other for profit or nonprofit organizations.

SECTION 11. When the managed process for public-private competition for government services pursuant to Section 6 of this Act is developed and implemented, and the State or county, pursuant to the managed process, is authorized to perform the services that were previously contracted out to a private entity, any covered employee who was transferred to a new or different position as a result of the contract with a private entity shall have the right of first refusal to be restored to the employee's former position or remain in the position to which the employee was transferred.

SECTION 12. Sections 9 and 11 of this Act shall not apply to any state or county contract for services which are provided by organizations which are awarded grants, subsidies, or purchase of service contracts pursuant to chapters 42D and 42F, Hawaii Revised Statutes, and to standards which are set by law, or established by county ordinances for the grant of public money or property pursuant to Section 4 of Article VII of the Constitution of the State of Hawaii.

#### PART V.

SECTION 13. The director of finance, with the assistance of the comptroller, shall assist in the implementation of performance-based budgeting as provided in Part II of this Act.

SECTION 14. (a) Part IV of this Act shall not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, prior to the effective date of this Act. Upon the effective date of this Act, no action or proceeding may be initiated by any party against the State or county regarding any contract with any private entity for goods, services, or construction that was entered into pursuant to Part IV of this Act.

(b) All new contracts for goods, services, or construction which are entered into by the State or county after the effective date of this Act and prior to July 1, 2001, which extend beyond June 30, 2001, shall include a provision stating that the contract, during its term, is subject to a single review by the State or county pursuant to the managed process in Part III, Section 6. Pursuant to the managed process review, the contract may be canceled, renegotiated, continued, or extended by the State or county. All of these contracts shall continue to be exempt from civil service laws, merit principles, and collective bargaining laws for the duration of the contract even if a managed process is not implemented.

(c) All contracts for goods, services, or construction which are entered into by the State or county on or before the effective date of this Act, including contracts which extend beyond June 30, 2001, shall not be subject to review by the State or county pursuant to the managed process in Part III, Section 6. All of these contracts shall continue to be exempt from civil service laws and merit principles for the duration of the contract.

SECTION 15. It is the intent of this Act not to jeopardize the receipt of any federal aid nor to impair the obligation of the State or any county or any agency

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thereof to the holders of any bond issued by the State or any county or by any such agency.

SECTION 16. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect the provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end, the provisions of this Act are severable.

SECTION 17. This Act shall take effect upon approval; provided that Part III and IV shall be repealed on June 30, 2001.

(Approved July 20, 1998.)

**ACT 231**

S.B. NO. 2411

A Bill for an Act Relating to Motor Vehicle Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to allow judges to suspend any penalty, or grant community service in lieu of any penalty, for a motor vehicle insurance violation if the defendant provides proof of having a current motor vehicle insurance policy.

SECTION 2. Section 431:10C-117, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

- “(a) (1) Any person subject to this article in the capacity of the operator, owner, or registrant of a motor vehicle in this State, or registered in this State, who violates any applicable provision of this article, shall be subject to citation for the violation by any county police department in a form and manner approved by the violations bureau of the district court of the first circuit[.];
- (2) Notwithstanding any provision of the Hawaii Penal Code:
  - (A) Each violation shall be deemed a separate offense and shall be subject to a fine of not less than \$100 nor more than \$5,000 which shall not be suspended except as provided in subparagraph (B);
  - (B) If the person is convicted of not having had a motor vehicle insurance policy in effect at the time the citation was issued, the fine shall be \$500 for the first offense and a minimum of \$1,500 for each subsequent offense that occurs within a five-year period from any prior [conviction;] offense; provided that the judge:
    - (i) Shall have the discretion to suspend all or any portion of the fine [for the first offense] if the defendant provides proof of having a current motor vehicle insurance policy; provided further that upon the defendant’s request, the judge may grant community service in lieu of the fine, of not less than seventy-five hours and not more than one hundred hours for the first offense, and not less than two hundred hours nor more than two hundred seventy-five hours for the second offense; and

- (ii) May grant community service in lieu of the fine for subsequent offenses at the judge's discretion[.];
- (3) In addition to the fine in paragraph (2), [for the first conviction within a five-year period for the offense of driving without motor vehicle insurance policy,] the court shall either:
- (A) Suspend the driver's license of the driver or of the registered owner for [three]:
- (i) Three months[.], for the first conviction; and
- (ii) One year for any subsequent offense within a five-year period from a previous offense;  
provided that [they] the driver or the registered owner shall not be required to obtain proof of financial responsibility pursuant to section 287-20; or
- (B) Require the driver or the registered owner to keep a nonrefundable motor vehicle insurance policy in force for six months[.]; [In addition to the fine in paragraph (2), if the violation is a subsequent offense of driving without a valid motor vehicle insurance policy, within a five-year period of any prior conviction, the driver's licenses of the driver or the registered owner shall be suspended for one year and the driver or the registered owner shall be required to maintain proof of financial responsibility pursuant to section 287-20.]
- (4) Any person cited under this section shall have an opportunity to present a good faith defense, including but not limited to lack of knowledge or proof of insurance. The general penalty provision of this section shall not apply to:
- (A) Any operator of a motor vehicle owned by another person if the operator's own insurance covers such driving;
- (B) Any operator of a motor vehicle owned by that person's employer during the normal scope of that person's employment; or
- (C) Any operator of a borrowed motor vehicle if the operator holds a reasonable belief that the subject vehicle is insured[.];
- and
- (5) In the case of multiple convictions for driving without a valid motor vehicle insurance policy within a five-year period from any prior [conviction,] offense, the court, in addition to any other penalty, shall impose the following penalties:
- (A) Imprisonment of not more than thirty days;
- (B) Suspension or revocation of the motor vehicle registration plates of the vehicle involved;
- (C) Impoundment, or impoundment and sale, of the motor vehicle for the costs of storage and other charges incident to seizure of the vehicle, or any other cost involved pursuant to section 431:10C-301; or
- (D) Any combination of those penalties.”
2. By amending subsection (d) to read:
- “(d) (1) Violations of subsections (b) and (c) shall be subject to the construction that each repetition of such act shall constitute a separate violation[.]; and
- (2) The imposition of any civil penalty under [subsections] subsection (a), (b), or (c) shall be in addition to, and shall not in any way limit or affect the application of, any other civil or criminal penalty, or public safety condition or requirement, provided by law.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

ACT 232

S.B. NO. 2581

A Bill for an Act Relating to Cemetery and Funeral Trusts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 441, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§441- Further additional charges or fees for perpetual care prohibited; unfair or deceptive act or practice; penalty.** (a) Subsequent to the execution of a valid written contract for the sale of cemetery property, interment services, funeral services, and related commodities by a mortuary, cemetery, or pre-need funeral authority to a purchaser in accordance with this chapter, further additional charges or fees for perpetual care shall be prohibited beyond those originally agreed upon in the contract and no such charges or fees shall be charged or collected by the seller for any purpose and upon any occasion; provided that a reasonable fee may be charged for administrative costs related to the transfer of ownership rights, including the cost of research, document and file preparation, photocopying, notary fees, records transfer and storage, and any other costs directly related to the transfer of ownership rights.

(b) A mortuary, cemetery, or pre-need funeral authority who violates subsection (a) is guilty of engaging in an unfair or deceptive act or practice under section 480-2, and shall be fined not less than \$500 nor more than \$10,000 for each violation. The penalties provided in this subsection are cumulative to the remedies or penalties available under all other laws of this State.”

SECTION 2. Section 441-22.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Every cemetery or pre-need funeral authority shall be required to provide to the purchaser of cemetery property, pre-need interment, or pre-need funeral services and related commodities a written contract which shall contain the following disclosure requirements:

- (1) The names and addresses of the authority and purchaser;
- (2) A clear and concise statement of the property, services, and related commodities to be supplied or not supplied and by whom, particularly if the authority is not to be the provider under the terms of the contract;
- (3) The purchase price of each item of property, services, and related commodities to be supplied and how the purchase price is payable; provided that, pursuant to section 441- , disclosure shall also be made that further additional charges or fees for perpetual care subsequent to the execution of the contract are prohibited for any purpose and on any occasion, except for reasonable fees related to the administrative costs of transferring ownership rights, including the cost of research, document and file preparation, photocopying, notary fees,

records transfer and storage, and any other costs directly related to the transfer of ownership rights;

- (4) Related costs covered under the contract;
- (5) The basis on which funds are to be deposited in trust;
- (6) Refund provisions of the contract;
- (7) The date and place of execution of the contract;
- (8) The authority's or its duly authorized agent's signature on the contract and the identification of this person by name and title; and
- (9) A statement that the written contract, when signed, shall constitute the entire agreement between the parties relative to its subject matter and that all obligations of both parties shall be fixed and enforceable by the other parties of the contract."

SECTION 3. Section 441-22.6, Hawaii Revised Statutes, is amended to read as follows:

**"§441-22.6 Mortuary, cemetery, or pre-need funeral authority: price list to be furnished.** (a) Each mortuary, cemetery, or pre-need funeral authority shall provide to every prospective purchaser, for written approval, a current price list, which shall contain separately stated prices for each type of property, service, or item which is a part of the cemetery property, interment, or funeral services and related commodities which the mortuary, cemetery, or pre-need funeral authority offers[.], including the price for services directly related to the transfer of ownership rights. Pursuant to section 441-\_\_\_\_, no further additional charges or fees shall be added to the price list for perpetual care subsequent to the execution of the contract for any purpose and on any occasion.

(b) The mortuary, cemetery, or pre-need funeral authority may use the format for a price list as established by the rules adopted by the director."

SECTION 4. Section 441-23, Hawaii Revised Statutes, is amended to read as follows:

**"§441-23 Fine, revocation, suspension, and renewal of authority licenses.** In addition to any other actions authorized by law, the director may fine an authority, revoke any authority license, or suspend the right of the licensee to use the license, or refuse to renew any license for any cause authorized by law, including but not limited to the following:

- (1) Any dishonest or fraudulent act as a cemetery or pre-need funeral authority that causes substantial damage to another;
- (2) Making repeated misrepresentations or false promises through advertising or otherwise;
- (3) Violation of this chapter or the rules adopted pursuant thereto;
- (4) Commingling the money or other property of others with that of the licensee;
- (5) [Adjudicated] Having been adjudicated insane or incompetent;
- (6) Selling or offering to sell any cemetery property, pre-need interment, funeral services, or pre-need funeral services based on speculation or promises of profit from resale;
- (7) Failing to file the actuarial study or an audited financial statement or to maintain in effect the bond as required by section 441-22; [or]
- (8) Failing to maintain pre-need trusts or perpetual care funds as required by this chapter[.]; or
- (9) Violating section 441-\_\_\_\_."

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SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 233**

S.B. NO. 2852

A Bill for an Act Relating to the Voluntary Response Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 128D-31, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§128D-31]]~~ **General.** (a) Except as otherwise provided in this part, all requirements of rules adopted pursuant to part I shall apply to voluntary response actions conducted pursuant to this part. All voluntary response actions, where an exemption from liability may be granted by the department, shall follow the public participation requirements of the remedial process as described in rules adopted pursuant to part I. [Additionally, the requesting party shall post a sign at the site notifying the public of participation in the voluntary response program and the public’s opportunity to comment.]

(b) Additionally, within ten days of receiving an application and processing fee, the department shall:

- (1) Post a sign at the site notifying the public of participation in the voluntary response program, the public’s opportunity to comment, and how a copy of the application may be obtained; and
- (2) Send a brief summary of the application to the office of environmental quality control for publication in the office’s bulletin along with instructions for obtaining a copy of the application and commenting procedures to the department.

The comment period shall run concurrently with and shall not delay the application process.

~~[(b)]~~ (c) This part shall apply to any person who chooses to conduct a voluntary response action. However, the exemption from liability in section 128D-40 shall only apply to prospective purchasers.”

SECTION 2. Section 128D-33, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) This part shall apply to all releases or threats of releases to which the director is authorized to respond under section 128D-4, except:

- (1) A site listed or proposed to be listed on the National Priorities List (NPL) pursuant to the Comprehensive Environmental Response Compensation and Liability Act (CERCLA);
- (2) Those sites with respect to which an order or other enforcement actions has been issued or entered under CERCLA and is still in effect;



- (3) A site where the United States Coast Guard has issued a federal Letter of Interest;
- (4) A site that is [the] subject [of] to corrective action under Subtitle C of the Resource Conservation and Recovery Act (RCRA) or chapter 342J; and
- [(5) At the discretion of the director, a site where the director has issued an order or is conducting a response pursuant to an enforceable agreement under this chapter and chapter 342L;
- (6)] (5) A site [which] that poses an imminent and substantial threat to human health, the environment, or natural resources as determined by the director[; and
- (7) A site where the director has determined that there is a significant public interest].”

SECTION 3. Section 128D-35, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The director may deny an application submitted under section 128D-34. In denying an application, the director may consider the following:

- (1) [An administrative enforcement action has been initiated that concerns the remediation of the hazardous substance, pollutant, or contaminant;] The nature and extent of any past, current, or future actions by the department regarding the proposed site and the impact the voluntary response action might have on these past, current, or future actions;
- (2) Site eligibility based on the criteria in section 128D-33;
- (3) Completeness and accurateness of the application:
  - (A) If an application is denied because it is incomplete or inaccurate, the director, not later than forty-five days after receipt of the application, shall identify the omission or inaccuracy for the requesting party. A requesting party whose application has been denied because it is incomplete or inaccurate, may resubmit an application for the same response action without submitting an additional application fee; and
  - (B) If a requesting party’s application is denied a second time, the director may require an additional \$1,000 processing fee for any subsequent submittal;
- (4) Inappropriate or inadequate scope of work;
- (5) Pending litigation;
- (6) The capacity of the requesting party or the requesting party’s agent to carry out the response action properly;
- (7) Whether the [department] public will receive [a] substantial benefit [for] from the cleanup [or an indirect public benefit in combination with a reduced direct benefit to the department;], including but not limited to environmental improvement and economic development;
- (8) Whether the continued operation of the site or new site development, with the exercise of due care, will aggravate or contribute to the existing contamination or interfere with the department’s response action;
- (9) Whether the continued operation or new development of the property will pose health risks to the community and those persons likely to be present at the site; or
- (10) The financial viability of the prospective purchaser.”

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SECTION 4. Section 128D-39, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The letter of completion shall be noted on the property deed and shall be sent to the county agency that issues building permits. The exemption from future liability and other benefits and restrictions identified in the letter of completion shall run with the land and apply to all future owners of the property. The exemption from liability noted in section 128D-40 [does] shall not apply to those persons who were liable pursuant to section 128D-6 prior to conducting the voluntary response action.”

SECTION 5. Section 128D-40, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) To qualify for an exemption from liability, a requesting party that is also a prospective purchaser [must have obtained final approval to conduct a voluntary response action from] shall enter into a voluntary response agreement with the department prior to becoming the owner or operator of the property[.] that is the subject of the agreement.

(b) Prospective purchasers who complete a voluntary response action and receive a letter of completion from the department shall be exempt from future liability to the department for those specific hazardous substances, pollutants, contaminants, media, and land area addressed in the voluntary response action. Parties who purchase property from an owner who has completed a voluntary response action and received a letter of completion from the department shall be exempt from future liability to the department for those specific hazardous substances, pollutants, contaminants, media, and land area specified in the letter of completion issued to the party who conducted the voluntary response action.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

## ACT 234

S.B. NO. 632

A Bill for an Act Relating to Traffic Enforcement.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that traffic violations in Hawaii, especially on the island of Oahu, have become intolerable, particularly the offenses of speeding and running red lights. Both of these violations endanger the lives of residents and compound the already hazardous conditions for both pedestrians and motorists on Hawaii’s roads and highways. News items are increasingly common that describe hit-and-run drivers who have run over small children or the elderly, both inside and outside crosswalks, who may not be able to react quickly enough to a racing drunk driver or someone speeding through an intersection after the light has already turned red.

The legislature further finds that two recent technological innovations that address the hazards caused by speeding and disregarding red lights have already

been in place and demonstrated their reliability and effectiveness in other jurisdictions—namely, photo speed imaging detector and photo red light imaging systems. The legislature finds that these innovations—both of which are completely automated—are appropriate for Hawaii's increasingly deteriorating traffic conditions, and are capable of safely and efficiently diffusing dangerous traffic control problems while at the same time freeing up police officers to handle more pressing problems.

The photo speed imaging detector system is a unit that mounts in a sport utility vehicle or van that detects, photographs, and records information on speeders. A vehicle with the speed detector unit is parked at the roadside and monitors the speeds of passing motorists, and is linked to a controlled console with a central processor and speed display. When a vehicle exceeding a preset threshold enters the beam of the speed detector, a high resolution camera photographs the front of the vehicle, capturing the front license plate, while a second camera photographs the rear of the vehicle. The scene is lit by a powerful strobe flash for evidentiary quality images. Tickets are processed automatically, so there is no need for an officer to make a stop and issue a ticket. In addition, since the violator's face and license plate are on record, compliance rates are considerably higher than with officer-generated tickets.

The legislature finds that a photo speed imaging detector system is safe, quick, cost-effective, and efficient. With no stop involved, the officer is not at risk from passing traffic or armed violators. Moreover, while a motivated traffic officer may average fifteen or twenty tickets per shift, the photo speed imaging detector system can write two tickets per second.

The photo speed imaging detector system is essentially a turnkey operation; all of the equipment, including a fully-outfitted police vehicle, speed detector systems, printer, film or image processing, and all supplies, as well as officer training, are provided by a private company. The private company identifies vehicle owners, prints and mails tickets, monitors compliance, and makes regular status reports. The company also charges a small fee per paid ticket, while the violator pays for everything else.

In addition, only one officer using the photo speed imaging detector system can be as productive, if only in terms of numbers of traffic tickets issued, as an entire traffic division. Officers can be assigned higher priority duties, while the system handles speed enforcement. Finally, these systems have proven their reliability for over twenty years in police departments in countries around the world.

The second major innovation is the photo red light imaging system. In this system, a camera is positioned at intersections where red light violations are a major cause of collisions. Rather than placing an officer at the intersection full-time, the red light camera serves as a twenty-four hour deterrent to running a red light. Sensors are buried under a crosswalk leading to a self-contained camera system that is mounted on a nearby pole. When a vehicle enters the intersection against a red light, the camera takes a telephoto color picture of the rear of the car as it rolls over the stop bar, capturing the rear license plate as evidence. A second wide-angle photograph takes in the entire intersection, including other traffic.

A sign may be posted at the intersection indicating that it is a photo-monitored intersection; however, the camera can be moved to different poles or intersections that are equipped to hold the camera, so that motorists do not know when they are being photographed. As with the photo speed imaging detector system, the private company that supplies the red light camera also processes the film, accesses motor vehicle records, checks the license plate against registration records, and mails out citations.

The legislature finds that the photo red light imaging system, like the photo speed imaging detector system, also has numerous benefits. As with the photo speed imaging detector system, not only are streets safer after the implementation of the

system, but police officers are freed from time-consuming traffic stops and have more time to make priority calls. A violator is less likely to go to court, since the color photograph of the violation in progress can be used as evidence in court. Imprinted on the photograph are the time, date, and location of the violation; the number of seconds the light had been red before the violator entered the intersection; and the violator's speed. Few cases are contested in other jurisdictions using this system, and officers make fewer court appearances, resulting in cost savings.

The legislature realizes that Hawaii's prior conversion to administrative adjudication of traffic offenses has eliminated the need for police officers to testify in most cases. However, to the extent that fewer citations are actually contested, cost savings will be realized and contested cases will receive a faster hearing. More importantly, compliance with traffic laws has generally increased in those jurisdictions; installation of this type of system has had an immediate effect on the behavior of drivers and has nearly eliminated violations in other jurisdictions.

The legislature finds that the implementation of both photo speed imaging detector and photo red light imaging systems will result in an increase in driver awareness leading to a reduction in traffic speeds and red light violations, and may also result in lower insurance costs for safe drivers with an overall reduction in crashes and injuries. Moreover, these programs place the cost of the programs on the violators, not the taxpayers. Traffic laws are enforced without discrimination, and safety and efficiency are increased by reducing the number of high-speed chases and the number of personnel required for traffic accident clean-up, investigation, and court testimony.

In addition, the legislature finds that there is a need to exempt contracts entered into with the private company that is to supply the photo speed imaging detector and photo red light imaging systems from the civil service, compensation, and collective bargaining laws. In Konno v. County of Hawaii, 85 Haw. 61, 937 P.2d 397 (1997), the Hawaii Supreme Court adopted the "nature of the services" test, holding that the protection of the civil service laws extends to those services that have been "customarily and historically" provided by civil servants. Because police officers may be held to be customarily and historically responsible for issuing tickets to speeding motorists and other functions that may now be contracted out to a private entity, there is a need to specifically exempt any such contracts from the civil service and compensation laws so that those contracts are not voided by Konno. Although the Konno opinion did not reach the decision whether privatization is subject to mandatory collective bargaining, this Act also exempts contracts entered into with a private entity from collective bargaining laws as well, to ensure that these contracts are not subsequently voided for failure to comply with those laws as a result of a subsequent court interpretation.

Finally, the legislature finds that speeding—whether on a highway or through a red light—frequently causes injury and death. When speeding occurs, the accidents involved are almost always more serious. Photo speed imaging detector and photo red light imaging systems have been proven in many locations throughout the United States, Canada, Europe, and numerous other countries around the world as deterrents to red light traffic violations and speeding and, consequently, injuries and death. The legislature finds that there is an immediate need to remedy the steadily worsening traffic conditions in Hawaii, and that the implementation of photo speed imaging detector and photo red light imaging systems will help to protect the health, safety, and welfare of the people of this State, while at the same time offering substantial cost savings and increased revenues.

The purpose of this Act is to:

- (1) Establish a three-year demonstration project in selected areas on state or county highways in each of the counties to provide for the imple-

mentation of photo speed imaging detector and photo red light imaging systems to improve traffic enforcement; and

- (2) Allow the county to contract with an appropriate provider of these systems pursuant to the public procurement laws while:
  - (A) Exempting such contracts from civil service, compensation, and collective bargaining laws;
  - (B) Permitting the contractor to have access to information as set forth in this Act; and
  - (C) Allowing the contractor to issue citations or summonses by mail.

## PART I

SECTION 2. Section 286-45, Hawaii Revised Statutes, is amended to read as follows:

**“§286-45 Records of county finance director.** (a) The director of finance shall file each application received and register the vehicle therein described in a record or book to be kept by the director of finance under the following headings:

- (1) Vehicle registration number;
- (2) Name of owner; and
- (3) Vehicle identification number.

The director of finance may microfilm vehicle registration and ownership records which are a year old and may discard the original records. The director of finance may discard vehicle registration and ownership records which are older than six years.

(b) Any private contractor that has entered into a contract with a county to implement the photo red light imaging and photo speed imaging detector demonstration project pursuant to Act 234, Session Laws of Hawaii 1998, may obtain from the county finance director the names and addresses of registered motor vehicle owners, which shall be used only as is necessary to carry out the provisions of the contract and the purposes of that Act and may not otherwise be publicly disclosed.”

SECTION 3. Section 286-172, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Subject to authorization granted by the chief justice with respect to the traffic records of the violations bureaus of the district courts and of the circuit courts, the director of transportation shall furnish information contained in the statewide traffic records system in response to:

- (1) Any request from a state, a political subdivision of a state, or a federal department or agency, or any other authorized person pursuant to rules adopted by the director of transportation under chapter 91;
- (2) Any request from a person having a legitimate reason, as determined by the director, as provided under the rules adopted by the director under paragraph (1), to obtain the information for verification of vehicle ownership, traffic safety programs, or for research or statistical reports; [or]
- (3) Any request from a person required or authorized by law to give written notice by mail to owners of vehicles[.]; or
- (4) Any request from a private contractor that has entered into a contract with a county as may be necessary to implement the photo red light imaging and photo speed imaging detector demonstration project pursuant to Act 234, Session Laws of Hawaii 1998. The private contractor may obtain from the director of transportation the names and addresses

of registered motor vehicle owners, which shall be used only as is necessary to carry out the provisions of the contract and the purposes of that Act and may not otherwise be publicly disclosed.”

SECTION 4. Section 291C-163, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) This chapter shall not be deemed to prevent counties with respect to streets and highways under their jurisdiction from:

- (1) Regulating or prohibiting stopping, standing, or parking except as provided in section 291C-111;
- (2) Regulating traffic by means of police officers or official traffic-control devices;
- (3) Regulating or prohibiting processions or assemblages on the highways;
- (4) Designating particular highways or roadways for use by traffic moving in one direction;
- (5) Establishing speed limits for vehicles in public parks;
- (6) Designating any highway as a through highway or designating any intersection as a stop or yield intersection;
- (7) Restricting the use of highways;
- (8) Regulating the operation and equipment of and requiring the registration and inspection of bicycles, including the requirement of a registration fee;
- (9) Regulating or prohibiting the turning of vehicles or specified types of vehicles;
- (10) Altering or establishing speed limits;
- (11) Requiring written accident reports;
- (12) Designating no-passing zones;
- (13) Prohibiting or regulating the use of controlled-access roadways by any class or kind of traffic;
- (14) Prohibiting or regulating the use of heavily traveled streets by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic;
- (15) Establishing minimum speed limits;
- (16) Designating hazardous railroad grade crossing;
- (17) Designating and regulating traffic on play streets;
- (18) Prohibiting pedestrians from crossing a roadway in a business district or any designated highway except in a crosswalk;
- (19) Restricting pedestrian crossing at unmarked crosswalks;
- (20) Regulating persons propelling push carts;
- (21) Regulating persons upon skates, coasters, sleds, and other toy vehicles;
- (22) Adopting and enforcing such temporary or experimental regulations as may be necessary to cover emergencies or special conditions;
- (23) Adopting maximum and minimum speed limits on streets and highways within their respective jurisdictions;
- (24) Adopting requirements on stopping, standing, and parking on streets and highways within their respective jurisdictions except as provided in section 291C-111;
- (25) Entering into an agreement with any private contractor to implement the photo red light imaging and photo speed imaging detector demonstration project pursuant to Act 234, Session Laws of Hawaii 1998; or
- [(25)] (26) Adopting such other traffic regulations as are specifically authorized by this chapter.”

## PART II

SECTION 5. **Definitions.** As used in this Act, unless the context otherwise requires:

“Contractor” means a private person or entity who has entered into a contract with a county pursuant to this Act.

“County” means the council, the mayor, or other person having the authority to enter into a contract pursuant to this Act on behalf of the county of Maui, Kauai, Hawaii, or the city and county of Honolulu.

“County highway” has the same meaning as used in section 265A-1, Hawaii Revised Statutes.

“Department” means the department of transportation.

“Director” means the director of transportation.

“Motor vehicle” has the same meaning as defined in section 291C-1, Hawaii Revised Statutes.

“Photo speed imaging detector” means a device used for traffic enforcement consisting substantially of a speed reduction unit and a camera mounted in or on a vehicle that automatically produces photographic identification of a vehicle traveling in excess of the legal speed limit in violation of section 291C-102, Hawaii Revised Statutes.

“Photo red light imaging” means a device used for traffic enforcement consisting substantially of a vehicle sensor installed to work in conjunction with a traffic-control signal that automatically produces photographic identification of a vehicle which disregards a steady red signal in violation of section 291C-32(a)(3), Hawaii Revised Statutes.

“Traffic-control signal” has the same meaning as defined in section 291C-1, Hawaii Revised Statutes.

SECTION 6. **Photo red light imaging and photo speed imaging detector demonstration project.** Subject to this Act, each county may establish a three-year demonstration project in selected areas of that county to provide for the implementation of photo red light imaging and photo speed imaging detector systems to improve traffic enforcement as provided in this Act. The demonstration project shall be limited to state or county highways and shall document the effectiveness of these systems. The contractor shall provide a public information campaign to inform local drivers about the use of the photo red light imaging and photo speed imaging detector systems before any citation or summons is actually issued.

SECTION 7. **Photo speed imaging detector system.** (a) Subject to this Act, each county may establish a photo speed imaging detector system imposing monetary liability on the registered owner of a motor vehicle for failure to comply with speeding laws in accordance with this Act. Each county may provide for the installation and operation of photo speed imaging detector systems on no more than twenty-five state or county highways at any one time in any county.

(b) Proof of a speeding violation shall be evidenced by information obtained from the photo speed imaging detector system authorized pursuant to this Act. A certificate, sworn to or affirmed by the contractor or the contractor’s agent or employee, or a facsimile thereof, based upon inspection of photographs, micro-photographs, videotape, or other recorded images produced by the system, shall be prima facie evidence of the facts contained therein. Any photographs, micro-photographs, videotape, or other recorded images, including digitally produced images, evidencing a violation shall be available for inspection in any proceeding to adjudicate the liability for that violation.

(c) A contractor may issue a citation or summons pursuant to section 10 on the basis of a photo speed imaging detector if the following conditions are met:

- (1) The photo speed imaging detector equipment is operated by a uniformed police officer out of a marked police vehicle;
- (2) An indication of the speed of the motor vehicle is displayed within one hundred fifty feet of the location of the photo speed imaging detector unit;
- (3) Signs indicating that speeds are enforced by a photo speed imaging detector are posted on all major routes entering the area in question, as far as practicable, providing notice to a motorist that a photo speed imaging detector may be used; and
- (4) The photo speed imaging detector system is used for no more than four hours per day in any one location from thirty minutes after sunrise to thirty minutes before sunset.

The conditions specified in this subsection shall not apply when the information gathered is used for highway safety research or to issue warning citations not involving a fine, court appearance, or a person's driving record.

**SECTION 8. Photo red light imaging system.** (a) Subject to this Act, each county may establish a photo red light imaging system imposing monetary liability on the operator of a motor vehicle for failure to comply with traffic-control signal laws in accordance with this Act. Each county may provide for the installation and operation of photo red light imaging systems at no more than twenty-five intersections in any one county at any one time.

(b) Proof of a traffic-control signal violation shall be evidenced by information obtained from the photo red light imaging system authorized pursuant to this Act. A certificate, sworn to or affirmed by the contractor or the contractor's agent or employee, or a facsimile thereof, based upon inspection of photographs, micro-photographs, videotape, or other recorded images produced by the system, shall be prima facie evidence of the facts contained therein. Any photographs, micro-photographs, videotape, or other recorded images evidencing a violation shall be available for inspection in any proceeding to adjudicate the liability for that violation.

(c) A contractor may issue a citation or summons pursuant to section 10 on the basis of the photo red light imaging system if the following conditions are met:

- (1) Signs indicating that the photo red light imaging system is in use are posted at all intersections at which the system may be used; and
- (2) Before issuing any citation, the contractor commences a program to issue only warning notices for fourteen days.

The conditions specified in this subsection shall not apply when the information gathered is used for highway safety research or to issue warning citations not involving a fine, court appearance, or a person's driving record.

**SECTION 9. Designation of appropriate locations.** (a) Each county shall designate locations on state or county highways in that county that are appropriate for the installation of:

- (1) Photo red light imaging systems, with the assistance of the director; and
- (2) Photo speed imaging detector systems, without the assistance of the director.

(b) Signs and other official traffic-control devices that designate photo red light imaging and photo speed imaging detector systems shall be placed and maintained to advise drivers of the existence and operation of those systems.



**SECTION 10. Summons or citation.** (a) Notwithstanding any law to the contrary, whenever any motor vehicle is determined by means of:

- (1) The photo red light imaging system to have disregarded a steady red signal in violation of section 291C-32(a)(3), Hawaii Revised Statutes; or
- (2) The photo speed imaging detector system to be in excess of the legal speed limit in violation of section 291C-102, Hawaii Revised Statutes,

the contractor shall cause a summons or citation as described in this section to be sent by certified or registered mail, with a return receipt that is postmarked within forty-eight hours of the time of the incident, to the registered owner of the vehicle at the address on record at the vehicle licensing division. If the end of the forty-eight hour period falls on a Saturday, Sunday, or holiday, then the ending period shall run until the end of the next day which is not a Saturday, Sunday, or holiday.

(b) There shall be provided for use by contractors a form of summons or citation for use in citing violators of those traffic laws specified in subsection (a) which do not mandate the physical arrest of those violators. The form and content of the summons or citation shall be as adopted or prescribed by the administrative judge of the district courts and shall be printed on a form commensurate with the form of other summonses or citations used in modern methods of arrest, so designed to include all necessary information to make the summons or citation valid within the laws of the State.

(c) Every citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original.

(d) Upon receipt, the registered owner shall respond as provided for in chapter 291D, Hawaii Revised Statutes. A mail receipt signed by the registered owner is prima facie evidence of notification. The registered owner shall be determined by the identification of the vehicle's registration plates.

**SECTION 11. Registered owner's responsibility for a summons or citation.** In any proceeding for a violation of this Act, the information contained in the summons or citation mailed in accordance with section 10 shall be deemed evidence that the registered vehicle violated section 291C-32(a)(3) or 291C-102, Hawaii Revised Statutes.

**SECTION 12. Prima facie evidence.** (a) Whenever the photo red light imaging system or the photo speed imaging detector system determines a motor vehicle to be in violation of section 291C-102 or 291C-32(a)(3), Hawaii Revised Statutes, as applicable, evidence that the motor vehicle described in the citations or summons issued pursuant to this Act was operated in violation of those sections of the Hawaii Revised Statutes, together with proof that the person to whom the summons or citation was sent was the registered owner of the motor vehicle at the time of the violation, shall constitute prima facie evidence that the registered owner of the motor vehicle was the person who committed the violation.

(b) The registered owner of the vehicle may rebut the prima facie evidence in subsection (a) by:

- (1) Submitting a written statement as provided in section 291D-6(b)(2), Hawaii Revised Statutes;
- (2) Testifying in open court under oath that the person was not the operator of the vehicle at the time of the alleged violation; or
- (3) Presenting, prior to the return date established on the citation or summons issued pursuant to this Act, a letter of verification of loss from the police department to the court adjudicating the alleged violation.

**SECTION 13. Failure to comply with summons or citation.** If the registered owner of the vehicle does not return an answer in response to a summons or citation within a period of fifteen days upon receipt of the summons or citation, the district court shall issue, pursuant to section 291D-7(e), Hawaii Revised Statutes, a notice of entry of judgment of default to the registered owner of the vehicle.

**SECTION 14. Liability for rental or U-drive vehicle.** Notwithstanding any law to the contrary, if the registered owner of record is the lessor of a rental or U-drive motor vehicle, as defined in section 286-2, Hawaii Revised Statutes, pursuant to a written lease agreement, the lessee at the time of the violation shall be responsible for the summons or citation; provided that:

- (1) The lessor shall be responsible for the summons or citation if the lessor does not provide the court, having jurisdiction over the summons or citation, with the name and address of the lessee within thirty days after a notice containing the date, time, and location of the violation and the license number of the vehicle is sent to the lessor; and
- (2) The administrative judge of the court having jurisdiction over the summons or citation may waive the requirement of providing the name and address of the lessee and impose on the lessor an administrative fee of \$50 per citation.

**SECTION 15. Penalty.** The penalties for all consequences of a violation for speeding initiated by the use of a photo speed imaging detector system, or for disregarding a steady red signal initiated by the use of a photo red light imaging system, shall be as provided in section 291C-161, Hawaii Revised Statutes.

**SECTION 16. Request for proposals; prequalification of applicants; prohibition.** (a) The department shall develop a request for proposals to purchase, lease, rent, use, install, maintain, and operate photo red light imaging and photo speed imaging detector systems in any county as provided in this Act. The request for proposals and all aspects of the contract shall be subject to chapter 103D, Hawaii Revised Statutes.

(b) The request for proposals shall be from a list of applicants prequalified by the department and each county, and shall be applicable to any contract between a county and any contractor entered into under the authority of this Act. Standards for prequalification of applicants under this section shall be determined by the department before the commencement of the selection process; provided that any contract entered into under this Act, at a minimum, shall be negotiated with the private entity found most qualified. The contractor shall demonstrate that it has the qualifications and experience necessary to carry out and expedite the terms of the contract and the ability to comply with applicable laws and court orders. Each contract entered into by a county may include any other requirements that the director considers necessary and appropriate for carrying out the purposes of this Act.

(c) A bidder or prospective bidder shall not have any contract with any member or employee of or consultant to any governmental entity responsible for awarding any contract under this Act from the time a request for proposals is issued until the time a contract is awarded, except if that contract is in writing or in a meeting for which notice was given as prescribed by law.

**SECTION 17. Authority to contract; duration of contract; approval as to form; contract term, renewal, and termination; exemptions.** (a) Each county, with prior approval from the department, may contract with one or more contractors to purchase, lease, rent, use, install, maintain, and operate photo red light imaging and photo speed imaging detector systems as provided in this Act.

(b) Notwithstanding any other law to the contrary, the contractor shall provide the following services and activities to implement the photo speed imaging detector and photo red light imaging systems:

- (1) Equipment installation;
- (2) Data processing, including custom software development and integration;
- (3) Staffing and training of law enforcement personnel and other persons as necessary to provide for effective traffic enforcement;
- (4) Film delivery, retrieval, and processing;
- (5) Image evaluation;
- (6) License plate identification and verification;
- (7) Review of individual motor vehicle registration records, pursuant to sections 286-45 and 286-172, Hawaii Revised Statutes, to obtain access only to the registered motor vehicle owner's name and address; this data shall only be used as is necessary to carry out the provisions of the contract and the purposes of this Act and may not otherwise be publicly disclosed;
- (8) Citation generation, processing, and tracking;
- (9) Data transfer to agency and court;
- (10) Violation and statistical data collection, analysis, and reporting;
- (11) Twenty-four-hour support services, consulting, technical assistance, and Internet access;
- (12) Community awareness and public relations services; and
- (13) Any other services, activities, or equipment deemed necessary by the department and each county.

(c) The contract shall specify such matters as are deemed relevant by the State, each county, and the contractor, and shall be approved as to form and content by the attorney general; provided that the contract:

- (1) Shall not specify any condition for the issuance of a citation or summons other than as provided by this Act or other applicable state law;
- (2) Shall prohibit the contractor, or the contractor's agents or employees, from engaging in any activities prescribed for police officers pursuant to chapter 52D or section 291C-164, Hawaii Revised Statutes, or any other provision of law relating to law enforcement or the use of force, except as otherwise provided in this Act;
- (3) Shall specify that personal and confidential information used for the projects shall become the property of each county at the end of the contract, that all data shall be returned to that county, and that the contractor may use information obtained from the State or that county only as is necessary to carry out the provisions of the contract and the purposes of this Act;
- (4) Shall make the data accessible to the contractor, as set forth in subsection (b)(7);
- (5) Shall provide appropriate security for the data system and equipment; and
- (6) Shall specify that motor vehicle registration records obtained pursuant to the contract, and as set forth in sections 286-45 and 286-172, Hawaii Revised Statutes, are personal and confidential information and may be used only for services related to issuance of traffic citations and court purposes.

(d) No contract shall be renewed unless a county, with the concurrence of the director, determines that the contract offers demonstrable benefits to that county as documented by the county.

(e) A county, upon demonstration that a breach of contract has occurred and that after the passage of a reasonable period of time the breach has not been cured, and without penalty to that county, may cancel a contract at any time after giving three-months' prior written notice.

(f) The department of budget and finance shall create an account and set aside a portion of the revenues received from the fines obtained from citations initiated as a result of the photo speed imaging detector and photo red light imaging demonstration project to offset the contractor's costs of operating the photo speed imaging detector and photo red light imaging systems.

(g) Notwithstanding any other law to the contrary, any contracts entered into by a county with a contractor pursuant to this section shall not be subject to chapters 76, 77, and 89, or section 46-33, Hawaii Revised Statutes.

**SECTION 18. Fines for unauthorized disclosure.** Any officer, employee, or agent of a contractor who intentionally discloses or provides a copy of personal and confidential information obtained from the State or a county to any person or agency with actual knowledge that disclosure is prohibited by the contractual or statutory provisions set forth in this Act, shall be fined not more than \$500,000; provided that the fine shall not preclude the application of penalties or fines otherwise provided for by law.

**SECTION 19. Powers and duties not delegable to contractor.** A contract entered into under this Act does not authorize, allow, or imply a delegation of authority to the contractor to assume any of the powers delegated to law enforcement personnel by statute except as provided in this Act.

**SECTION 20. Liability and sovereign immunity.** (a) The contractor shall assume all liability arising under a contract entered into pursuant to this Act.

(b) Neither the sovereign immunity of the State nor the sovereign immunity applicable to a county shall extend to the contractor. Neither the contractor nor the insurer of the contractor may plead the defense of sovereign immunity in any action arising out of the performance of the contract or any other application with respect to the implementation of the demonstration project under this Act.

**SECTION 21. Insurance.** (a) The contractor shall indemnify the State and each county, including their officials and agents, against any and all liability. Proof of satisfactory insurance is required in an amount to be determined by the attorney general. The attorney general shall determine the amount and manner of the indemnification.

(b) Subject to subsection (a), the contractor shall provide an adequate plan of insurance as determined by the attorney general. In determining the adequacy of the plan, the attorney general shall determine whether the insurance is adequate to:

- (1) Fully indemnify each county and the State from actions by third parties against the contractor, the county, or the State as a result of the contract;
- (2) Assure the contractor's ability to fulfill its contract with each county in all respects and to assure that the contractor is not limited in this ability due to financial liability that results from judgments;
- (3) Protect each county and the State against claims arising as the result of any occurrence during the term of the contract on an occurrence basis; and
- (4) Satisfy other requirements specified by the State and each county.

**SECTION 22. Rules.** The department shall adopt rules pursuant to chapter 91, Hawaii Revised Statutes, as may be necessary to implement this Act.

**SECTION 23. Report.** Each county shall submit interim and final reports to the legislature as follows:

- (1) The interim report shall document the progress made in implementing the demonstration project and any contract entered into with a private contractor. The interim report shall be submitted to the legislature no later than twenty days before the convening of the regular sessions of 1999 and 2000; and
- (2) The final report shall evaluate the effectiveness of the demonstration project, and shall include the following:
  - (A) The total fine revenue generated by using the photo speed imaging detector and photo red light imaging systems;
  - (B) The number of citations and summonses issued by the photo speed imaging detector and photo red light imaging systems;
  - (C) The amount paid to the contractor providing the photo speed imaging detector and photo red light imaging systems;
  - (D) The effect of the demonstration project on traffic safety;
  - (E) The degree of public acceptance of the project;
  - (F) The process of administration of the project;
  - (G) An evaluation of the costs and benefits of the project;
  - (H) A review of the effectiveness of contracts entered into under this Act and the performance of the contractor;
  - (I) Recommendations for design or planning changes that might reduce traffic congestion on state or county highways; and
  - (J) Findings and recommendations as to whether to continue any contract entered into pursuant to this Act, make the project permanent, or adopt another alternative.

The final report shall include any proposed implementing legislation as may be necessary, and shall be submitted to the legislature no later than twenty days before the convening of the regular session of 2001.

**SECTION 24.** It is the intent of this Act not to jeopardize the receipt of any federal aid nor to impair the obligation of the State or any agency thereof to the holders of any bond issued by the State or by any such agency, and to the extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

**SECTION 25.** If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 26.** This Act shall apply to contracts entered into on or after the effective date of this Act. The provisions of this Act shall not be applied so as to impair any contract existing as of the effective date of this Act or to otherwise be deemed to violate either the Hawaii Constitution or Article I, section 10, of the United States Constitution.

**SECTION 27.** This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

## ACT 235

SECTION 28. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 29. This Act shall take effect on July 1, 1998; provided that on July 1, 2001, this Act shall be repealed and sections 286-45, 286-172(a), and 291C-163(a), Hawaii Revised Statutes, are reenacted in the form in which they read on June 30, 1998.

(Approved July 20, 1998.)

## ACT 235

S.B. NO. 720

A Bill for an Act Relating to the Fees and Costs for the Administrative Revocation of Driver's License.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 286, Hawaii Revised Statutes, is amended by adding a new section to part XIV to be appropriately designated and to read as follows:

“**§286- Fees and costs.** The director shall be authorized to assess and collect a \$15 fee from the arrestee for the costs of processing the arrestee's request for an administrative hearing to cover costs which include but should not be limited to the cost of photocopying documents, the issuance of subpoenas, conditional permits and relicensing forms, interpreter services, law enforcement official mileage fees, and other similar costs. The director may waive the fee in the case of indigent arrestees upon an appropriate inquiry into the financial circumstances of the person seeking the waiver and an affidavit or a certificate signed by such person demonstrating the person's financial inability to pay the fee.”

SECTION 2. Section 286-254, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(g) The notice shall state that if the administrative revocation is reversed after the hearing, the arrestee's license and any fees collected from the arrestee under this part shall be returned along with a certified statement that the administrative revocation proceedings have been terminated.”

SECTION 3. Section 286-259, Hawaii Revised Statutes, is amended by amending subsection (i) to read as follows:

“(i) The director's decision shall be rendered in writing and mailed to the arrestee no later than five days after the hearing. If the decision is to reverse the administrative revocation, the director shall return the arrestee's license and any fees collected from the arrestee under this part along with a certified statement that administrative revocation proceedings have been terminated. If the decision sustains the administrative revocation, the director shall mail to the arrestee a written decision indicating the duration of the administrative revocation and any other conditions or restrictions as may be imposed pursuant to section 286-261.”

SECTION 4. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 236**

S.B. NO. 1065

A Bill for an Act Relating to Election Offenses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-95, Hawaii Revised Statutes, is amended to read as follows:

**“§11-95 Employees entitled to leave on election day for voting.** (a) Any voter shall on the day of the election be entitled to be absent from any service or employment in which such voter is then engaged or employed for a period of not more than two hours (excluding any lunch or rest periods) between the time of opening and closing the polls to allow two consecutive hours in which to vote. Such voter shall not because of such absence be liable to any penalty, nor shall there be any rescheduling of normal hours or any deduction made, on account of the absence from any usual salary or wages; provided that the foregoing shall not be applicable to any employee whose hours of employment are such that the employee has a period of two consecutive hours (excluding any lunch or rest periods) between the time of opening and closing the polls when the employee is not working for the employer. If, however, any employee fails to vote after taking time off for that purpose the employer, upon verification of that fact, may make appropriate deductions from the salary or wages of the employee for the period during which the employee is hereunder entitled to be absent from employment. Presentation of a voter’s receipt by an employee to the employer shall constitute proof of voting by the employee. [Any person violating this section shall be guilty of an offense under section 19-8.]

(b) Any person, business, or corporation who refuses an employee the privileges conferred by this section, or subjects an employee to a penalty or deduction of wages because of the exercise of the privileges, or who directly or indirectly violates this section, shall be subject to a fine of not less than \$50 nor more than \$300.

(c) Any action taken to impose or collect the fines established in this section shall be a civil action.”

SECTION 2. Section 19-7, Hawaii Revised Statutes, is repealed.

SECTION 3. Section 19-8, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 19-9, Hawaii Revised Statutes, is repealed.

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 6. Statutory material to be repealed is bracketed.<sup>1</sup> New statutory material is underscored.

## ACT 237

SECTION 7. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 237

S.B. NO. 1089

A Bill for an Act Relating to Endangered Species.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 195D-4, Hawaii Revised Statutes, is amended by amending subsections (g), (h), and (i) to read as follows:

“(g) After consultation with the endangered species recovery committee, the board may issue a temporary license as a part of a habitat conservation plan to allow a take otherwise prohibited by subsection (e) if the take is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity; provided that:

- (1) The applicant, to the maximum extent practicable, shall minimize and mitigate the impacts of the take;
- (2) The applicant shall guarantee that adequate funding for the plan will be provided;
- (3) The applicant shall post a bond, or deposit a sum of money in the fund created by section 183D-10.5, adequate to ensure monitoring of the species by the State and to assure that the applicant takes all actions necessary to minimize and mitigate the impacts of the take;
- (4) The plan shall increase the likelihood that the species will survive and recover;
- (5) The plan takes into consideration the full range of the species on the island so that cumulative impacts associated with the take can be adequately assessed;
- (6) The measures, if any, required under section 195D-21(b) shall be met, and the department has received any other assurances that may be required so that the plan may be implemented;
- (7) The activity, which is permitted and facilitated by issuing the license to take a species, does not involve the use of submerged lands, mining, or blasting;
- (8) The cumulative impact of the activity, which is permitted and facilitated by the license, provides net environmental benefits; and
- (9) The take is not likely to cause the loss of genetic representation of an affected population of any endangered, threatened, proposed, or candidate plant species.

Board approval shall require an affirmative vote of not less than two-thirds of the authorized membership of the board[,] after holding a public hearing on the matter on the affected island. The department shall notify the public of [its intent to issue] a proposed license under this section [and make the application available for public review and comment] through publication in the periodic bulletin of the office of [[environmental[]] quality control and make the application and proposed license available for public review and comment for not less than sixty days prior to approval.

(h) Licenses issued pursuant to this section may be suspended or revoked for due cause, and if issued pursuant to a habitat conservation plan or safe harbor



agreement, shall run with the land for the term agreed to in the plan or agreement and shall not be assignable or transferable separate from the land. Any person whose license has been revoked shall not be eligible to apply for another license until the expiration of two years from the date of revocation.

(i) The department shall work cooperatively with federal agencies in concurrently processing habitat conservation plans, safe harbor agreements, and incidental take licenses pursuant to the Endangered Species Act. After notice in the periodic [bulletins] bulletin of the office of environmental quality control and a public hearing on the islands affected, which shall be held jointly with the federal agency, if feasible, whenever a landowner seeks both a federal and a state safe harbor agreement, habitat conservation plan, or incidental take license, the board, by a two-thirds majority vote, may approve the federal agreement, plan, or license without requiring a separate state agreement, plan, or license if the federal agreement, plan, or license satisfies, or is amended to satisfy, all the criteria of this chapter. All state agencies, to the extent feasible, shall work cooperatively to process applications for habitat conservation plans and safe harbor agreements on a consolidated basis including concurrent processing of any state land use permit application that may be required pursuant to chapter 183C or 205, so as to minimize procedural burdens upon the applicant.”

SECTION 2. Section 195D-21, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

“(a) The [board] department may enter into [agreements] a planning process with any landowner for the purpose of preparing and implementing a habitat conservation plan. An agreement may include multiple landowners. Applications to enter into a planning process shall identify:

- (1) The geographic area encompassed by the plan;
- (2) The ecosystems, natural communities, or habitat types within the plan area that are the focus of the plan;
- (3) The endangered, threatened, proposed, and candidate species known or reasonably expected to occur in the ecosystems, natural communities, or habitat types in the plan area;
- (4) The measures or actions to be undertaken to protect, maintain, restore, or enhance those ecosystems, natural communities, or habitat types within the plan area;
- (5) A schedule for implementation of the proposed measures and actions; and
- (6) An adequate funding source to ensure that the proposed measures and actions are undertaken in accordance with the schedule.

After a habitat conservation plan is prepared, the board shall notify the public of [its intent to enter into] the proposed habitat conservation plan [and make the plan and the application available for public review and comment] through the periodic bulletin of the office of [[environmental]] quality control [for] and make the proposed plan and the application available for public review and comment not less than sixty days prior to approval. The notice shall include, but not be limited to, identification of the area encompassed by the plan, the proposed activity, and the ecosystems, natural communities, and habitat types within the plan area. The notice shall solicit public input and relevant data.

(b) Except as otherwise provided by law, the board, upon recommendation from the department, in cooperation with other state, federal, county, or private organizations and landowners, after a public hearing on the island affected, and upon an affirmative vote of not less than two-thirds of its authorized membership, may enter into a habitat conservation plan, if it determines that the plan will further the

purposes of this chapter by protecting, maintaining, restoring, or enhancing identified ecosystems, natural communities, or habitat types upon which endangered, threatened, proposed, or candidate species depend within the area covered by the plan; that the plan will increase the likelihood of recovery of the endangered or threatened species that are the focus of the plan; and that the plan satisfies all the requirements of this chapter. Habitat conservation plans may allow conservation rental agreements, habitat banking, and direct payments. Any habitat conservation plan approved pursuant to this section shall be based on the best available scientific and other reliable data available at the time the plan is approved.

Each habitat conservation plan shall:

- (1) Identify the geographic area encompassed by the plan; the ecosystems, natural communities, or habitat types within the plan area that are the focus of the plan; and the endangered, threatened, proposed, and candidate species known or reasonably expected to be present in those ecosystems, natural communities, or habitat types in the plan area;
- (2) Describe the activities contemplated to be undertaken within the plan area with sufficient detail to allow the department to evaluate the impact of the activities on the particular ecosystems, natural communities, or habitat types within the plan area that are the focus of the plan;
- (3) Identify the steps that will be taken to minimize and mitigate all negative impacts, including without limitation the impact of any authorized incidental take, with consideration of the full range of the species on the island so that cumulative impacts associated with the take can be adequately assessed; and the funding that will be available to implement those steps;
- (4) Identify those measures or actions to be undertaken to protect, maintain, restore, or enhance the ecosystems, natural communities, or habitat types within the plan area; a schedule for implementation of the measures or actions; and an adequate funding source to ensure that the actions or measures, including monitoring, are undertaken in accordance with the schedule;
- (5) Be consistent with the goals and objectives of any approved recovery plan for any endangered species or threatened species known or reasonably expected to occur in the ecosystems, natural communities, or habitat types in the plan area;
- (6) Provide reasonable certainty that the ecosystems, natural communities, or habitat types will be maintained in the plan area, throughout the life of the plan, in sufficient quality, distribution, and extent to support within the plan area those species typically associated with the ecosystems, natural communities, or habitat types, including any endangered, threatened, proposed, and candidate species known or reasonably expected to be present in the ecosystems, natural communities, or habitat types within the plan area;
- (7) Contain objective, measurable goals, the achievement of which will contribute significantly to the protection, maintenance, restoration, or enhancement of the ecosystems, natural communities, or habitat types; time frames within which the goals are to be achieved; [and] provisions for monitoring (such as field sampling techniques), including periodic monitoring by representatives of the department or the endangered species recovery committee, or both; and provisions for evaluating progress in achieving the goals quantitatively and qualitatively; and
- (8) Provide for an adaptive management strategy that specifies the actions to be taken periodically if the plan is not achieving its goals.

(c) The board shall disapprove a habitat conservation plan if the board determines, based upon the best scientific and other reliable data available at the time its determination is made, that the cumulative activities, if any, contemplated to be undertaken within the areas covered by the plan are not environmentally beneficial, or that implementation of the plan:

- (1) Is likely to jeopardize the continued existence of any endangered, threatened, proposed, or candidate species identified in the plan area;
- (2) Is likely to cause any native species not endangered or threatened at the time of plan submission to become threatened or endangered;
- (3) Fails to meet the criteria of subsections (a) and (b); or
- (4) Fails to meet the criteria of section 195D-4(g).

The habitat conservation plan shall contain sufficient information for the board to ascertain with reasonable certainty the likely effect of the plan upon any endangered, threatened, proposed, or candidate species in the plan area and throughout its habitat range.”

SECTION 3. Section 195D-22, Hawaii Revised Statutes, is amended to read as follows:

“**[§195D-22] Safe harbor agreements.** (a) To encourage landowners to voluntarily engage in efforts that benefit endangered, threatened, proposed, and candidate species, except as otherwise provided by law, the board, upon approval by not less than two-thirds of the board’s authorized membership, after a public hearing on the island affected, may enter into a safe harbor agreement with one or more landowners to create, restore, or improve habitats or to maintain currently unoccupied habitats that threatened or endangered species can be reasonably expected to use, if the board determines that the cumulative activities, if any, contemplated to be undertaken within the areas covered by the agreement are environmentally beneficial. The board shall notify the public of [its intent to enter into a] the proposed safe harbor agreement [and make the proposed agreement available for public review and comment] through the periodic bulletin of the office of [environmental] quality control [for] and make the proposed agreement available for public review and comment not less than sixty days prior to approval.

(b) A safe harbor agreement may authorize the take of an endangered, threatened, proposed, or candidate species incidental to an otherwise lawful activity in or affecting the created, restored, maintained, or improved habitat; provided that based on the best scientific and other reliable data available at the time the safe harbor agreement is approved, if these data are applicable:

- (1) The take would not jeopardize the continued existence of any endangered, threatened, proposed, or candidate species;
- (2) The take would not reduce the population of endangered, threatened, proposed, or candidate species below the number found on the property prior to entering into the agreement;
- (3) The agreement proposes to create, restore, maintain, or improve significant amounts of habitat for a minimum of five years;
- (4) There is adequate funding for the agreement and the source of that funding is identified;
- (5) The safe harbor agreement increases the likelihood that the endangered or threatened species for which a take is authorized will recover;
- (6) Any take authorized pursuant to this subsection shall occur only in the habitat created, restored, maintained, or improved; and
- (7) The cumulative impact of the activity, which is permitted and facilitated by the take, provides net environmental benefits.

(c) Notwithstanding any other law to the contrary, the board shall suspend or rescind any safe harbor agreement approved under this section if the board determines that:

- (1) Any parties to the safe harbor agreement, or their successors, have breached their obligations under the safe harbor agreement or under any other agreement implementing the safe harbor agreement and have failed to cure the breach in a timely manner, and the effect of the breach is to diminish the likelihood that the agreement will achieve its goals within the time frames or in the manner set forth in the agreement; or
- (2) To the extent that funding is or will be required, the funding source specified in subsection (b) no longer exists and is not replaced by another sufficient funding source to ensure that the measures or actions specified in subsection (b) are undertaken in accordance with this section.

(d) The rights and obligations under any safe harbor agreement shall run with the land for the term agreed to in the agreement and shall be recorded by the department in the bureau of conveyances or the land court, as may be appropriate.”

SECTION 4. Section 195D-25, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) The endangered species recovery committee shall:
- (1) Review all applications and proposals for habitat conservation plans, safe harbor agreements, and incidental take licenses and make recommendations, based on a full review of the best available scientific and other reliable data and in consideration of the cumulative impacts of the proposed action on the recovery potential of the endangered, threatened, proposed, or candidate species, to the department and the board as to whether or not they should be approved, amended, or rejected;
  - (2) Review all habitat conservation plans, safe harbor agreements, and incidental take licenses on an annual basis to ensure compliance with agreed to activities and, on the basis of any available monitoring reports, and scientific and other reliable data, make recommendations for any necessary changes;
  - (3) Consider and [develop] recommend appropriate incentives to encourage landowners to voluntarily engage in efforts that restore and conserve endangered, threatened, proposed, and candidate species;
  - (4) Perform such other duties as provided in this chapter; [and]
  - (5) Consult with persons possessing expertise in such areas as the committee may deem appropriate and necessary in the course of exercising its duties[.]; and
  - (6) Not conduct more than one site visit per year to each property.”

SECTION 5. Section 195D-27, Hawaii Revised Statutes, is amended to read as follows:

“**[§195D-27]** **Administrative enforcement of rules, plans, agreements, or licenses.** (a) Any person may petition the chairperson to appoint a hearings officer to hear a request to enjoin any person, including the State and any other government agency, alleged to be in violation of this chapter, including any rule adopted pursuant to this chapter, habitat conservation plan, safe harbor agreement, or incidental take license, or to require the State to take action to enforce this chapter, including any rule adopted pursuant to this chapter or any term of a habitat conservation plan, safe harbor agreement, or incidental take license.

(b) Upon receipt of [the] a petition, the chairperson shall make a diligent effort to resolve the subject matter of the petition and, if appropriate, to cause the noncomplying or other responsible party to comply with the habitat conservation plan, safe harbor agreement, or incidental take license. If the chairperson is unable to resolve the subject matter of the petition within a period of time deemed reasonable under the circumstances, but in no event more than ninety days; or if the petitioner is not satisfied with the chairperson's resolution of the subject matter, then the chairperson shall appoint a hearings officer to hear the petition. The hearings officer shall commence a contested case hearing in accordance with chapter 91 and, within thirty days of the completion of the hearing, grant in whole or in part, or deny the petition.

(c) Nothing in this section shall grant any authority whatsoever upon [the] a hearings officer to assess monetary damages or criminal penalties against any party found to be in violation of this chapter, however, the hearings officer shall issue findings of fact and, if appropriate, an order directing the party found to be in violation to take specific action to comply with this chapter.

(d) Any person who believes that a violation of a habitat conservation plan, safe harbor agreement, or incidental take license has occurred, is occurring, or is likely to occur, may petition the chairperson for [the] an immediate [appointment of a hearings officer.] hearing. The petition shall be accompanied by an affidavit alleging:

- (1) Specific facts showing that the continued existence of an endangered or threatened species [will] is likely to be jeopardized unless the alleged violation is immediately enjoined; and
- (2) The efforts that have been made to notify the landowner of the alleged violation.

If the chairperson finds that there exists good cause for a hearing, then a hearings officer shall be appointed who shall conduct a hearing forthwith, and in any event within forty-eight hours after the filing of the petition. If the hearings officer [finds] determines that there is a substantial likelihood that the continued existence of an endangered or threatened species will be jeopardized unless the violation is immediately enjoined, then the hearings officer shall order temporary injunctive relief, which shall expire upon such terms as the hearings officer determines.'

SECTION 6. Section 205-6, Hawaii Revised Statutes, is amended to read as follows:

**“§205-6 Special permit. (a)** The county planning commission may permit certain unusual and reasonable uses within agricultural and rural districts other than those for which the district is classified. Any person who desires to use the person's land within an agricultural or rural district other than for an agricultural or rural use, as the case may be, may petition the planning commission of the county within which the person's land is located for permission to use the person's land in the manner desired. Each county may establish the appropriate fee for processing the special permit petition.

**(b)** The planning commission, upon consultation with the central coordinating agency, except in counties where the planning commission is advisory only in which case the central coordinating agency, shall establish by rule or regulation, the time within which the hearing and action on petition for special permit shall occur. The county planning commission shall notify the land use commission and such persons and agencies that may have an interest in the subject matter of the time and place of the hearing.

**(c)** The county planning commission may under such protective restrictions as may be deemed necessary, permit the desired use, but only when the use would

promote the effectiveness and objectives of this chapter. A decision in favor of the applicant shall require a majority vote of the total membership of the county planning commission.

(d) Special permits for land the area of which is greater than fifteen acres shall be subject to approval by the land use commission. The land use commission may impose additional restrictions as may be necessary or appropriate in granting such approval, including the adherence to representations made by the applicant.

(e) A copy of the decision together with the complete record of the proceeding before the county planning commission on all special permit requests involving a land area greater than fifteen acres shall be transmitted to the land use commission within sixty days after the decision is rendered. Within forty-five days after receipt of the complete record from the county planning commission, the land use commission shall act to approve, approve with modification, or deny the petition. A denial either by the county planning commission or by the land use commission, or a modification by the land use commission, as the case may be, of the desired use shall be appealable to the circuit court of the circuit in which the land is situated and shall be made pursuant to the Hawaii rules of civil procedure.

(f) Land uses substantially involving or supporting educational ecotourism, related to the preservation of native Hawaiian endangered, threatened, proposed, and candidate species, that are allowed in an approved habitat conservation plan under section 195D-21 or safe harbor agreement under section 195D-22, which are not identified as permissible uses within the agricultural district under sections 205-2 and 205-4.5, may be permitted in the agricultural district by special permit under this section, on lands with soils classified by the land study bureau's detailed land classification as overall (master) productivity rating class C, D, E, or U."

SECTION 7. Section 343-3, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

- “(c) The office shall inform the public of:
- (1) A public comment process or public hearing if a federal agency provides for the public comment process or public hearing to process a habitat conservation plan, safe harbor agreement, or incidental take license pursuant to the federal Endangered Species Act; [and
  - (2) The board of land and natural resources' intent to:
    - (A) Enter into a] (2) A proposed habitat conservation plan or proposed safe harbor agreement, and availability for inspection of the proposed agreement, plan, and application to enter into a planning process for the preparation and implementation of the habitat conservation plan for public review and comment; and
    - [(B) Issue an] (3) A proposed incidental take license as part of a habitat conservation plan or safe harbor agreement.”

SECTION 8. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 10. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

## Note

1. Prior to amendment "any" appeared here.

## ACT 238

S.B. NO. 1273

A Bill for an Act Relating to Victims of Sexual Assault.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that sexual assault victims are often fearful of contracting HIV as a result of having been sexually assaulted. The fear of contracting this life-threatening disease adds to the extraordinary psychological trauma felt by the victims of sexual assault. However, the legislature further finds that research conducted by the Centers for Disease Control and Prevention (CDCP) indicates that the probability of contracting HIV as a result of a sexual assault is very low, at approximately .003 percent. The CDC also indicates in its most recent advisory guidelines for the treatment of sexually transmitted diseases, that to be effective, HIV preventive treatment must begin no later than 24 to 36 hours post-exposure.

Additionally, prosecutors indicate that it is very difficult to anticipate or control the amount of time between the actual assault and the arrest or indictment of the alleged offender, due to the specific factors of each case. Therefore, unless the test is initiated immediately after contact to consider the results in connection with the most effective preventive treatment available, subsequent mandatory HIV testing of the offender, even upon arrest or indictment, is medically useless to victims and, could put victims at-risk if they choose to wait to be tested until after the offender is tested.

Thus, while the legislature believes that mandatory testing of sex offenders at the request of the victim may provide some psychological remedy, it is more important to provide victims with immediate counseling, including accurate and up-to-date information regarding HIV preventive treatment, offering them HIV testing immediately after the assault, and, upon request, the result of the HIV test of the convicted adult or adjudicated juvenile sex offender. In order to provide such counseling and testing for victims, the legislature is passing this Act to qualify for federal funds which shall be used by the State to provide direct services to victims of sexual assault.

The purpose of this Act is to: permit victims of sexual assault to require a convicted adult or adjudicated juvenile sex offender to be tested for the human immunodeficiency virus (HIV); allow the victim to receive the results through a designated health care professional; and direct that any federal funds received as a result of this Act be used for direct services to victims.

SECTION 2. Chapter 325, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§325- Counseling and testing of sexual assault victims; testing of sex offenders upon request of victim.** (a) Any sexual assault victim, or the parent or guardian of a minor or incapacitated victim, shall be informed as soon as practicable after the assault, of the availability of human immunodeficiency virus (HIV) testing for the victim, the availability of counseling for the victim, and the right of the victim to request that the person convicted of a sexual assault offense involving the victim be tested for HIV. The victim, or the parent or guardian of a minor or incapacitated victim, and the convicted person shall be provided HIV counseling prior to being

tested, and follow-up counseling at the time the results are presented to the victim or the parent or guardian of a minor or incapacitated victim and the convicted person.

(b) The court shall order a convicted person to be tested for the etiological agent for the human immunodeficiency virus (HIV) if the victim has requested that the person be tested for HIV. The following procedures shall be used when ordering the test:

- (1) The victim or the parent or guardian of a minor or incapacitated victim shall be informed, as soon as practicable, of the right to request that the convicted person be tested for HIV, the availability of department of health funded HIV testing for the victim, and the availability of HIV counseling for the victim. If the victim or parent or guardian of a minor or incapacitated victim requests the HIV status of a convicted person, the victim, parent, or guardian shall designate a physician or a certified HIV counselor to receive the test result, provide counseling, and notify the victim, parent, or guardian of the test result;
- (2) If the victim or parent or guardian of a minor or incapacitated victim requests, in writing, that the convicted person be tested for HIV, the court shall seek the consent of the convicted person to voluntarily submit to an HIV test;
- (3) If the convicted person does not voluntarily consent to take an HIV test or fails to take an HIV test, the court shall order the person to submit to an HIV test.

Whenever practicable, blood samples taken for HIV testing under this section shall be taken in conjunction with samples taken for DNA testing under section 706-603; provided that the HIV test results shall not be disclosed to any person other than the physician or HIV counselor designated to receive the results by the victim or the parent or the guardian of a minor or incapacitated victim.

(c) The results of the convicted person's HIV test shall be forwarded by the laboratory to the designated physician or HIV counselor, and shall be released by the physician, in consultation with the department of health or the HIV counselor, to the convicted person and the victim or the parent or guardian of a minor or incapacitated victim. Prior to such release, the victim or the parent or guardian shall be required to sign a notice of HIV status disclosure advising them of the confidentiality provisions regarding HIV test results and the penalties for unlawful disclosure pursuant to section 325-101.

(d) No person authorized under this paragraph to withdraw blood or assist in the performance of the HIV test, or any medical facility where the blood is drawn or tested that has been ordered by the court to withdraw or test blood, shall be liable in any civil or criminal action if the test is performed in a reasonable manner according to generally accepted medical practices.

(e) As used in this section, unless the context requires otherwise:

“Convicted person” means a person who has been convicted of an offense under sections 707-730, 707-731, or 707-732(1)(a), including a juvenile adjudicated of such an offense. A person is convicted when a verdict or adjudication has been rendered by a judge or jury, or a plea of guilty or nolo contendere has been accepted by the court.

“HIV counseling” means HIV counseling which conforms to the guidelines of the department of health or the Centers for Disease Control and Prevention, and includes referral for appropriate health care and support services.

“HIV counselor” means any person who has been trained and certified in HIV counseling by the department of health or the Centers for Disease Control and Prevention and who is not a victim counselor employed by or a volunteer with any law enforcement agency.”



SECTION 3. Section 325-16, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) Consent to testing is not required for any of the following:
- (1) [Anatomical gifts.] A health care provider or organ donor center [which] that procures, processes, distributes, or uses human body parts donated for scientific purposes [may], without obtaining consent [to the testing], may test for the presence of HIV in order to assure medical acceptability of the gift for the purpose intended[.];
  - (2) [Research.] The department, laboratories and research facilities, health care providers, blood banks, plasma centers, and educational institutions may subject any body fluids or tissue to be used in research to a test for HIV infection if the test is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher[.];
  - (3) Anonymous testing carried out at HIV test sites established by the department;<sup>1</sup> provided that informed [verbal] oral consent is obtained[.];
  - (4) Testing of body fluids or tissue [which is] ordered by a third party, so long as that third party, including but not limited to an insurance company, employer, or school, obtains the informed written consent of the person to be tested authorizing the release of the test results to the third party, and transmits a signed copy of the written informed consent to the health provider prior to any release of the requested test results to the third party[.];
  - (5) [Patient diagnosis or treatment.] Informed consent is not required where the patient is unable to give consent and it is determined by the patient’s treating physician that the patient’s HIV status is necessary [(A)] to make a diagnosis[, or [(B)] to] determine an appropriate course of treatment for the patient. The patient shall be informed in a timely manner that a test for the presence of HIV has been performed pursuant to [the provisions of] this paragraph, and the patient shall be provided the opportunity to obtain the test results and appropriate counseling[.];
  - (6) [Protection of health care workers.] A treating physician may order an HIV test without the patient’s informed consent if the physician has determined that the patient is incapable of giving consent prior to the rendering of treatment and when there is reason to believe that the safety of a health care worker may be affected due to exposure to the blood or bodily fluids of a patient suspected of possible HIV infection. The availability and quality of health care services shall not be compromised based on the findings and testing performed pursuant to this paragraph. The costs of any testing performed shall be borne by the health care provider and may not be claimed against the patient or the patient’s health care insurer. The patient and the health care worker shall be informed in a timely manner that a test for the presence of HIV has been performed pursuant to the provisions of this paragraph, and the patient and the health care worker shall be provided the opportunity to obtain the test results and appropriate counseling[.]; and
  - (7) A person who has been convicted, or a juvenile who has been adjudicated, pursuant to sections 707-730, 707-731, or 707-732(1)(a) shall be tested to determine the person’s HIV status upon court order issued pursuant to section 325- . The test shall be performed according to the protocols set forth in section 325-17.”

SECTION 4. Section 325-101, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The records of any person that indicate that a person has a human immunodeficiency virus (HIV) infection, AIDS related complex (ARC), or acquired immune deficiency syndrome (AIDS), which are held or maintained by any state agency, health care provider or facility, physician, laboratory, clinic, blood bank, third party payor, or any other agency, individual, or organization in the State shall be strictly confidential. For the purposes of this part, the term “records” shall be broadly construed to include all communication [which] that identifies any individual who has HIV infection, ARC, or AIDS. This information shall not be released or made public upon subpoena or any other method of discovery. Notwithstanding any other provision to the contrary, release of the records protected under this part shall be permitted under the following circumstances:

- (1) Release is made to the department of health in order that it may comply with federal reporting requirements imposed on the State. The department shall ensure that personal identifying information from these records [are] is protected from public disclosure;
- (2) Release is made of the records, or of specific medical or epidemiological information contained therein, with the prior written consent of the person or persons to whom the records pertain;
- (3) Release is made to medical personnel in a medical emergency only to the extent necessary to protect the health, life, or well-being of the named party;
- (4) Release is made from a physician licensed pursuant to chapter 453 or 460 to the department of health to inform the sexual or needle sharing contact of an HIV seropositive patient where:
  - (A) [there] There is reason for the physician to believe that the contact is or has been at risk of HIV transmission as a result of the index patient having engaged in conduct which is likely to transmit HIV[.]; and
  - (B) [the] The index patient has first been counseled by the physician of the need for disclosure and the patient is unwilling to inform the contact directly or is unwilling to consent to the disclosure of the index patient’s HIV status by the physician or the department of health; provided that the identity of the index patient is not disclosed; and provided further that there is no obligation to identify or locate any contact. Any determination by a physician to disclose or withhold disclosure of an index patient’s sexual contacts to the department of health pursuant to this subsection which is made in good faith shall not be subject to penalties under this part or otherwise subject to civil or criminal liability for damages under the laws of the State;
- (5) Release is made by the department of health of medical or epidemiological information from the records to medical personnel, appropriate county and state agencies, blood banks, plasma centers, organ and tissue banks, schools, preschools, day care centers, or county or district courts to enforce this part and to enforce rules adopted by the department [of health] concerning the control and treatment of HIV infection, ARC, and AIDS, or to the sexual or needle sharing contacts of an HIV seropositive index patient for purposes of contact notification as provided in paragraph (4)[.]; provided that the identity of the index patient, if known, shall not be disclosed; provided further that release of information under this paragraph shall only be made by confidential

- communication to a designated individual charged with compliance with this part;
- (6) Release of a child's records is made to the department of human services for the purpose of enforcing chapters 350 and 587;
  - (7) Release of a child's records is made within the department of human services and to child protective services team consultants under contract to the department of human services for the purpose of enforcing and administering chapters 350 and 587 on a need to know basis pursuant to a written protocol to be established and implemented, in consultation with the director of health, by the director of human services;
  - (8) Release of a child's records is made by employees of the department of human services authorized to do so by the protocol established in paragraph (7) [in a case arising under chapters 350 and 587] to a natural parent of a child who is the subject of the case when the natural parent is a client in the case, the guardian ad litem of the child, the court, each party to the court proceedings, and also to an adoptive or a prospective adoptive parent, an individual or an agency with whom the child is placed for twenty-four hour residential care, and medical personnel responsible for the care or treatment of the child. When a release is made to a natural parent of the child, it shall be with appropriate counseling as required by section 325-16. In no event shall proceedings be initiated against a child's natural parents for claims of child abuse under chapter 350 or harm to a child or to affect parental rights under chapter 587 solely on the basis of the HIV seropositivity of a child or the child's natural parents;
  - (9) Release is made to the patient's health care insurer to obtain reimbursement for services rendered to the patient; provided that release shall not be made if, after being informed that a claim will be made to an insurer, the patient is afforded the opportunity to make the reimbursement directly and actually makes the reimbursement;
  - (10) Release is made by the patient's health care provider to another health care provider for the purpose of continued care or treatment of the patient;
  - (11) Release is made pursuant to a court order, after an in camera review of the records, upon a showing of good cause by the party seeking [the] release of the records; [or]
  - (12) Disclosure by a physician, on a confidential basis, of the identity of a person who is HIV seropositive and who also shows evidence of tuberculosis infection, to a person within the department of health as designated by the director of health for purposes of evaluating the need for or the monitoring of tuberculosis chemotherapy for the person and the person's contacts who are at risk of developing tuberculosis[.]; or
  - (13) Release is made for the purpose of complying with sections 325- and 801D-4(b). Nothing in this section shall be construed to prohibit a victim to whom information is released pursuant to section 325- from requesting the release of information by a physician or HIV counselor to a person with whom the victim shares a privileged relationship recognized by chapter 626; provided that prior to such release, the person to whom the information is to be released shall be required to sign a notice of HIV status disclosure advising them of the confidentiality provisions regarding HIV test results and the penalties for unlawful disclosure to any person other than a designated physician or HIV counselor.

As used in this part, unless the context requires otherwise:

“Medical emergency” means any disease-related situation that threatens life or limb.

“Medical personnel” means any health care provider in the State, as provided in section 323D-2, who deals directly or indirectly with the identified patient or the patient’s contacts, and includes hospital emergency room personnel, the staff of the communicable disease division of the department of health, and any other department personnel as designated by the director.”

SECTION 5. Section 801D-4, Hawaii Revised Statutes, is amended to read as follows:

“**§801D-4 Basic bill of rights for victims and witnesses.** (a) Upon written request, victims and surviving immediate family members of crime shall have the following rights:

- (1) To be informed by the police and the prosecuting attorney of the final disposition of the case. If the crime charged is a felony, the victim or a surviving immediate family member shall be notified of major developments in the case and whenever the defendant or perpetrator is released from custody. The victim or a surviving immediate family member shall also be consulted and advised about plea bargaining by the prosecuting attorney[.];
- (2) To be notified by the prosecuting attorney if a court proceeding to which they have been subpoenaed will not proceed as scheduled[.];
- (3) To receive protection from threats or harm[.];
- (4) To be informed by the police, victim/witness counselor, or other criminal justice personnel, of financial assistance and other social services available as a result of being a witness to or a victim of crime, including information on how to apply for the assistance and services[.];
- (5) To be provided by the court, whenever possible, with a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families and friends of defendants[.];
- (6) To have any stolen or other personal property expeditiously returned by law enforcement agencies when [such] the property is no longer needed as evidence. If feasible, all [such] the property, except weapons, currency, contraband, property subject to evidentiary analysis, and property, the ownership of which is disputed, shall be returned to the person within ten days of being taken[.]; and
- (7) To be informed by the department of public safety of changes planned by the department in the custodial status of the offender that allows or results in the release of the offender into the community, including escape, furlough, work release, placement on supervised release, release on parole, release on bail bond, release on appeal bond, and final discharge at the end of the prison term.

(b) Upon written request, the victim or the parent or guardian of a minor or incapacitated victim of an offense under section 707-730, 707-731, or 707-732(1)(a) shall have the right to be informed of the human immunodeficiency virus (HIV) status of the person who has been convicted or a juvenile who has been adjudicated under that section and to receive counseling regarding HIV. The testing shall be performed according to the protocols set forth in section 325-17. Upon request of the victim, or the parent or guardian of a minor or incapacitated victim, the department of health shall provide counseling.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 7. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**Notes**

1. Semicolon should be underscored.
2. Edited pursuant to HRS §23G-16.5.

**ACT 239**

S.B. NO. 1309

A Bill for an Act Relating to Criminal Injuries Compensation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 351-2, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:  
“‘Crime’ means those under section 351-32, and shall include an act of terrorism occurring outside the United States as defined in title 18 United States Code section 2331, against a resident of this State.’”

2. By amending the definitions of “resident” and “victim” to read:  
“‘Resident’ means [a person who maintains] every individual who:

- (1) Intends to permanently reside in this State;
- (2) Has a permanent abode in this State;
- (3) Is a student at any institution of learning and claimed as a dependent of a Hawaii resident;
- (4) Files a Hawaii income tax return; or
- (5) Is registered to vote in this State.

“Victim” means [a];

- (1) A person who is injured or killed by any act or omission of any other person coming within the criminal jurisdiction of the State [or any];
- (2) Any resident of the State who is injured or killed in another state by an act or omission of another person [in a state not having a crime victim compensation program eligible for federal funding under 42 United States Code §10601, et seq.], which act or omission is within the description of any of the crimes specified in section 351-32[.]; or
- (3) A person who is a resident of this State who is injured or killed by an act of terrorism occurring outside the United States, as defined in title 18 United States Code section 2331.’”

SECTION 2. Section 351-31, Hawaii Revised Statutes, is amended to read as follows:

**“§351-31 Eligibility for compensation.** (a) In the event any private citizen is injured or killed by any act or omission of any other person coming within the criminal jurisdiction of the State after June 6, 1967, or any state resident is injured or killed by any act or omission of any other person after July 1, 1989, in another state [not having a compensation program eligible for federal funding under 42 United States Code §10601, et seq., under which the state resident may receive compensation], which act or omission is within the description of the crimes enumerated in section 351-32, or any resident of this State who is injured or killed by an act of

terrorism occurring outside the United States, as defined in title 18 United States Code section 2331, the criminal injuries compensation commission in its discretion, upon an application, may order the payment of compensation in accordance with this chapter:

- (1) To or for the benefit of the victim;
- (2) To any person responsible for the maintenance of the victim, where that person has suffered pecuniary loss or incurred expenses as a result of the victim's injury or death;
- (3) In the case of the death of the victim, to or for the benefit of any one or more of the dependents of the deceased victim; or
- (4) To any person who has incurred expenses on account of hospital, medical, funeral, and burial expenses as a result of the deceased victim's injury and death.

(b) For the purposes of this chapter, a person shall be deemed to have intentionally committed an act or omission notwithstanding that by reason of age, insanity, drunkenness, or otherwise the person was legally incapable of forming a criminal intent.

(c) In determining whether to make an order under this section, the commission may consider any circumstances it determines to be relevant, and the commission shall consider the behavior of the victim, and whether, because of provocation or otherwise, the victim bears any share of responsibility for the crime that caused the victim's injury or death and the commission shall reduce the amount of compensation in proportion to the amount of responsibility for the crime which caused the victim's injury or death; provided that if [such] the proportion is greater than the responsibility of the person who committed the act or omission or, in the case of more than one person, the aggregate responsibility of such persons because of whom compensation is sought, the commission shall not award any compensation to [such] the victim.

(d) An order may be made under this section whether or not any person is prosecuted or convicted of a crime arising out of an act or omission described in subsection (a)[; provided] if an arrest has been made or [such] the act or omission has been reported to the police without undue delay. No order may be made under this section unless the commission finds that:

- (1) The act or omission did occur; and
- (2) The injury or death of the victim resulted from the act or omission.

Upon application from either the prosecuting attorney or the chief of police of the appropriate county, the commission may suspend proceedings under this chapter for [such] a period as it deems desirable on the ground that a prosecution for a crime arising out of the act or omission has been commenced or is imminent, or that release of the investigation report would be detrimental to the public interest.

(e) If the commission finds that an applicant has made a false statement or representation of a material fact knowing it to be false, or has knowingly failed to disclose a material fact to obtain or increase any compensation under this chapter, and if the false statement or representation was discovered prior to the payment of compensation, the claim may be denied in its entirety[; provided that if]. If the claim has already been paid, the applicant [is responsible for reimbursement to] shall reimburse the commission.

(f) No compensation of any kind shall be awarded to a victim or intervenor who suffered injury or death while confined in any federal, state, or county jail, prison, or other correctional facility."

SECTION 3. Section 351-32, Hawaii Revised Statutes, is amended to read as follows:

“§351-32 **Violent crimes.** The crimes to which part III of this chapter applies are the following and no other:

- (1) Murder in the first degree (section 707-701);
- (2) Murder in the second degree (section 707-701.5);
- (3) Manslaughter (section 707-702);
- (4) Negligent homicide in the first degree (section 707-702.5);
- (5) Negligent homicide in the second degree (section 707-703);
- (6) Negligent injury in the first degree (section 707-705);
- (7) Negligent injury in the second degree (section 707-706);
- (8) Assault in the first degree (section 707-710);
- (9) Assault in the second degree (section 707-711);
- (10) Assault in the third degree (section 707-712);
- (11) Kidnapping (section 707-720);
- (12) Sexual assault in the first degree (section 707-730);
- (13) Sexual assault in the second degree (section 707-731);
- (14) Sexual assault in the third degree (section 707-732);
- (15) Sexual assault in the fourth degree (section 707-733); [and]
- (16) Abuse of family and household member (section 709-906)[.]; and
- (17) Terrorism, as defined in title 18 United States Code section 2331.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

## ACT 240

S.B. NO. 1310

A Bill for an Act Relating to Criminal Injuries Compensation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to change the name of the criminal injuries compensation commission to the crime victim compensation commission and to make a corresponding name change to the criminal injuries compensation fund. This change is being effectuated so the commission’s name clearly reflects its purpose of assisting crime victims.

SECTION 2. Chapter 351, Hawaii Revised Statutes, is amended by amending the chapter title to read as follows:

“[**CRIMINAL INJURIES**] **CRIME VICTIM COMPENSATION**”

SECTION 3. Section 351-2, Hawaii Revised Statutes, is amended by amending the definition of “commission” to read as follows:

““Commission” means the [criminal injuries] crime victim compensation commission established by this chapter.”

SECTION 4. Section 351-11, Hawaii Revised Statutes, is amended to read as follows:

**ACT 241**

**“§351-11 [Criminal injuries] Crime victim compensation commission.**

There shall be a [criminal injuries] crime victim compensation commission composed of three members appointed and removable in the manner prescribed by section 26-34. No officer or employee of the State or any county shall be eligible for appointment to the commission. The commission is placed within the department of public safety for administrative purposes.”

SECTION 5. Sections 351-15, 351-16, 351-17, 351-31, 351-33, 351-35, 351-51, 351-52, 351-61, 351-62.5, 351-63, 351-65, 351-67, 351-68, 351-69, 351-70, and 351-82, Hawaii Revised Statutes, are amended by substituting the word “commission” wherever the words “criminal injuries compensation commission” appear, as the context requires.

SECTION 6. Sections 26-14.6, 92-6, 354D-12, and 706-605, Hawaii Revised Statutes, are amended by substituting the words “crime victim compensation commission” wherever the words “criminal injuries compensation commission” appear, as the context requires.

SECTION 7. Sections 351-62.5, 351-64.5, 351-70, 351-84, and 354D-12, Hawaii Revised Statutes, are amended by substituting the words “crime victim compensation fund” wherever the words “criminal injuries compensation fund” appear, as the context requires.

SECTION 8. Section 706-602, Hawaii Revised Statutes, is amended by substituting the words “crime victim compensation act” for “criminal injuries compensation act.”

SECTION 9. Any appropriation made for deposit in the criminal injuries compensation fund shall be deposited into the crime victim compensation fund.

SECTION 10. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 11. This Act shall take effect on July 1, 1998.

(Approved July 20, 1998.)

**ACT 241**

S.B. NO. 1362

A Bill for an Act Relating to Negotiable Instruments.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 490:3-103, Hawaii Revised Statutes, is amended by adding a new definition to subsection (b) to be appropriately inserted and to read as follows:

““Demand draft”. Section 490:3-104.”

SECTION 2. Section 490:3-104, Hawaii Revised Statutes, is amended to read as follows:



**“§490:3-104 Negotiable instrument.** (a) Except as provided in subsections (c) and (d), “negotiable instrument” means an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in the promise or order, if it:

- (1) Is payable to bearer or to order at the time it is issued or first comes into possession of a holder;
- (2) Is payable on demand or at a definite time; and
- (3) Does not state any other undertaking or instruction by the person promising or ordering payment to do any act in addition to the payment of money, but the promise or order may contain [(i) an];
  - (A) An undertaking or power to give, maintain, or protect collateral to secure payment[, (ii) an];
  - (B) An authorization or power to the holder to confess judgment or realize on or dispose of collateral[.]; or [(iii) a]
  - (C) A waiver of the benefit of any law intended for the advantage or protection of an obligor.

(b) “Instrument” means a negotiable instrument.

(c) An order that meets all of the requirements of subsection (a), except paragraph (1) and otherwise falls within the definition of “check” in subsection (f) is a negotiable instrument and a check.

(d) A promise or order other than a check is not an instrument if, at the time it is issued or first comes into possession of a holder, it contains a conspicuous statement, however expressed, to the effect that the promise or order is not negotiable or is not an instrument governed by this Article.

(e) An instrument is a “note” if it is a promise and is a “draft” if it is an order. If an instrument falls within the definition of both “note” and “draft”, a person entitled to enforce the instrument may treat it as either.

(f) “Check” means [(i) a]:

- (1) A draft, other than a documentary draft, payable on demand and drawn on a bank; [or (ii) a]
- (2) A cashier’s check or teller’s check[.]; or
- (3) A demand draft.

An instrument may be a check even though it is described on its face by another term, such as “money order”.

(g) “Cashier’s check” means a draft with respect to which the drawer and drawee are the same bank or branches of the same bank.

(h) “Teller’s check” means a draft drawn by a bank [(i) on]:

- (1) On another bank[.]; or [(ii) payable]
- (2) Payable at or through a bank.

(i) “Traveler’s check” means an instrument that [(i) is]:

- (1) Is payable on demand[, (ii) is];
- (2) Is drawn on or payable at or through a bank[, (iii) is];
- (3) Is designated by the term “traveler’s check” or by a substantially similar term[.]; and [(iv) requires,]

(4) Requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the instrument.

(j) “Certificate of deposit” means an instrument containing an acknowledgment by a bank that a sum of money has been received by the bank and a promise by the bank to repay the sum of money. A certificate of deposit is a note of the bank.

(k) “Demand draft” means a writing not signed by a customer that is created by a third party under the purported authority of the customer for the purpose of charging the customer’s account with a bank. A demand draft may contain any or all of the following:

- (1) The customer’s printed or typewritten name or account number;

(2) A notation that the customer authorized the draft; or

(3) The statement “No Signature Required” or words to that effect.

A demand draft shall not include a check drawn by a fiduciary, as defined in section 490:3-307(a)(1).”

SECTION 3. Section 490:3-416, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A person who transfers an instrument for consideration warrants to the transferee and, if the transfer is by indorsement, to any subsequent transferee that:

- (1) The warrantor is a person entitled to enforce the instrument;
- (2) All signatures on the instrument are authentic and authorized;
- (3) The instrument has not been altered;
- (4) The instrument is not subject to a defense or claim in recoupment of any party which can be asserted against the warrantor; [and]
- (5) The warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer[.]; and
- (6) If the instrument is a demand draft, creation of the instrument according to the terms on its face was authorized by the person identified as drawer.”

SECTION 4. Section 490:3-417, Hawaii Revised Statutes, is amended to read as follows:

“**§490:3-417 Presentment warranties.** (a) If an unaccepted draft is presented to the drawee for payment or acceptance and the drawee pays or accepts the draft, (i) the];

(1) The person obtaining payment or acceptance, at the time of presentment[.]; and [(ii) a]

(2) A previous transferor of the draft, at the time of transfer, warrant to the drawee making payment or accepting the draft in good faith that:

[(1)] (A) The warrantor is, or was, at the time the warrantor transferred the draft, a person entitled to enforce the draft or authorized to obtain payment or acceptance of the draft on behalf of a person entitled to enforce the draft;

[(2)] (B) The draft has not been altered; [and]

[(3)] (C) The warrantor has no knowledge that the signature of the drawer of the draft is unauthorized[.]; and

(D) If the draft is a demand draft, creation of the demand draft according to the terms on its face was authorized by the person identified as drawer.

(b) A drawee making payment may recover from any warrantor damages for breach of warranty equal to the amount paid by the drawee less the amount the drawee received or is entitled to receive from the drawer because of the payment. In addition, the drawee is entitled to compensation for expenses and loss of interest resulting from the breach. The right of the drawee to recover damages under this subsection is not affected by any failure of the drawee to exercise ordinary care in making payment. If the drawee accepts the draft, breach of warranty is a defense to the obligation of the acceptor. If the acceptor makes payment with respect to the draft, the acceptor is entitled to recover from any warrantor for breach of warranty the amounts stated in this subsection.

(c) If a drawee asserts a claim for breach of warranty under subsection (a) based on an unauthorized indorsement of the draft or an alteration of the draft, the

warrantor may defend by proving that the indorsement is effective under section 490:3-404 or 490:3-405 or the drawer is precluded under section 490:3-406 or 490:4-406 from asserting against the drawee the unauthorized indorsement or alteration.

(d) If [(i) a]:

(1) A dishonored draft is presented for payment to the drawer or an indorser [or (ii) any]; or

(2) Any other instrument is presented for payment to a party obliged to pay the instrument[.]; and [(iii) payment]

(3) Payment is received, the following rules apply:

[(1)] (A) The person obtaining payment and a prior transferor of the instrument warrant to the person making payment in good faith that the warrantor is, or was, at the time the warrantor transferred the instrument, a person entitled to enforce the instrument or authorized to obtain payment on behalf of a person entitled to enforce the instrument[.]; and

[(2)] (B) The person making payment may recover from any warrantor for breach of warranty an amount equal to the amount paid plus expenses and loss of interest resulting from the breach.

(e) The warranties stated in subsections (a) and (d) cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within thirty days after the claimant has reason to know of the breach and the identity of the warrantor, the liability of the warrantor under subsection (b) or (d) is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(f) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

(g) A demand draft is a check, as provided in section 490:3-104(f).''

SECTION 5. Section 490:4-207, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A customer or collecting bank that transfers an item and receives a settlement or other consideration warrants to the transferee and to any subsequent collecting bank that:

(1) The warrantor is a person entitled to enforce the item;

(2) All signatures on the item are authentic and authorized;

(3) The item has not been altered;

(4) The item is not subject to a defense or claim in recoupment (section 490:3-305(a)) of any party that can be asserted against the warrantor; [and]

(5) The warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer[.]; and

(6) If the item is a demand draft, creation of the item according to the terms on its face was authorized by the person identified as drawer.’’

SECTION 6. Section 490:4-208, Hawaii Revised Statutes, is amended to read as follows:

“**§490:4-208 Presentment warranties.** (a) If an unaccepted draft is presented to the drawee for payment or acceptance and the drawee pays or accepts the draft[, (i) the]:

- (1) The person obtaining payment or acceptance, at the time of presentment[.]; and [(ii) a]
- (2) A previous transferor of the draft, at the time of transfer, warrant to the drawee that pays or accepts the draft in good faith that:
  - [(1)] (A) The warrantor is, or was, at the time the warrantor transferred the draft, a person entitled to enforce the draft or authorized to obtain payment or acceptance of the draft on behalf of a person entitled to enforce the draft;
  - [(2)] (B) The draft has not been altered; [and]
  - [(3)] (C) The warrantor has no knowledge that the signature of the purported drawer of the draft is unauthorized[.]; and
  - (D) If the draft is a demand draft, creation of the demand draft according to the terms on its face was authorized by the person identified as drawer.

(b) A drawee making payment may recover from a warrantor damages for breach of warranty equal to the amount paid by the drawee less the amount the drawee received or is entitled to receive from the drawer because of the payment. In addition, the drawee is entitled to compensation for expenses and loss of interest resulting from the breach. The right of the drawee to recover damages under this subsection is not affected by any failure of the drawee to exercise ordinary care in making payment. If the drawee accepts the draft [(i) breach]:

- (1) Breach of warranty is a defense to the obligation of the acceptor[.]; and [(ii) if]
- (2) If the acceptor makes payment with respect to the draft, the acceptor is entitled to recover from a warrantor for breach of warranty the amounts stated in this subsection.

(c) If a drawee asserts a claim for breach of warranty under subsection (a) based on an unauthorized indorsement of the draft or an alteration of the draft, the warrantor may defend by proving that the indorsement is effective under section 490:3-404 or 490:3-405 or the drawer is precluded under section 490:3-406 or 490:4-406 from asserting against the drawee the unauthorized indorsement or alteration.

- (d) If [(i) a]:
  - (1) A dishonored draft is presented for payment to the drawer or an indorser; or [(ii) any]
  - (2) Any other item is presented for payment to a party obliged to pay the item, and the item is paid, the person obtaining payment and a prior transferor of the item warrant to the person making payment in good faith that the warrantor is, or was, at the time the warrantor transferred the item, a person entitled to enforce the item or authorized to obtain payment on behalf of a person entitled to enforce the item. The person making payment may recover from any warrantor for breach of warranty an amount equal to the amount paid plus expenses and loss of interest resulting from the breach.

(e) The warranties stated in subsections (a) and (d) cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within thirty days after the claimant has reason to know of the breach and the identity of the warrantor, the warrantor is discharged to the extent of any loss caused by the delay in giving notice of the claim.

(f) A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

- (g) A demand check is a check, as provided in section 490:3-104(f).''

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

## ACT 242

S.B. NO. 1559

A Bill for an Act Relating to Environmental Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 342P, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§342P- Variances.** (a) Every application for a variance shall be made on a form furnished by the department and shall be accompanied by a complete and detailed description of present conditions, how present conditions do not conform to applicable standards, and any other information as the department may prescribe by rule.

(b) Each application for a variance shall be reviewed by the department. Additional information may be requested by the department for review.

(c) Whenever an application for a variance is approved, the department shall issue a variance authorizing the deviation from established asbestos or lead-based paint hazards standards. No variance shall be granted by the department unless the application and the supporting information clearly show that:

- (1) The continuation of the function or operation involved in the deviation from asbestos or lead standards occurring or proposed to occur by the granting of the variance is in the public interest;
- (2) The authorized variance occurring or proposed to occur does not substantially endanger human health or safety; and
- (3) Compliance with the applicable standards or rules from which a variance is sought would produce serious hardship without equal or greater benefits to the public.

(d) Any variance or renewal of a variance shall be granted within the requirements of this section, and for time periods consistent with the reasons given within the following limitations:

- (1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, control, or abatement of the asbestos or lead involved, it shall be only until the necessary means for prevention, control, or abatement becomes practicable. The variance shall be granted subject to the taking of any substitute or alternate measures that the department may prescribe. No renewal of a variance granted under this subsection shall be allowed without a thorough review of known and available means of preventing, controlling, or abating the asbestos or lead hazards involved;
- (2) The director may issue a variance for a period not exceeding six months; and
- (3) Every variance granted under this section shall include conditions requiring the grantee to perform air or dust sampling and report the results of the sampling to the department.

(e) Any variance granted pursuant to this section may be renewed for periods not exceeding six months on terms and conditions that would be appropriate upon the initial granting of a variance; provided that the applicant for renewal has met all of the conditions specified in the immediately preceding variance. No renewal shall be granted without an application. Any renewal application shall be made at least sixty days prior to the expiration of the variance. The director shall act on an application for renewal within sixty days of the receipt of the application.

(f) The director may afford a hearing in accordance with chapter 91 in relation to an application for the issuance, renewal, or modification of a variance.

(g) No variance shall be construed to prevent or limit the application of any emergency provision or procedure provided by law.

(h) Any application for a variance may be subject to public participation. The contents of the public notice for a variance application shall include at least:

- (1) The name, address, and phone number of the agency issuing the public notice;
- (2) The name and address of the applicant;
- (3) A brief description of the applicant's activities or operations that result in asbestos or lead hazards, or other activity described in the variance application;
- (4) A short description of the location of each asbestos or lead-based paint hazard indicating whether the hazard is new or existing;
- (5) A brief description of the public participation procedures, including the comment period, which shall be for a period of not less than thirty days following the date of the public notice, and other means by which interested persons may comment on the variance application and the department's proposed action; and
- (6) The address and phone number of the state agency at which interested persons may obtain further information and may inspect a copy of the variance application and supporting and related documents.

**§342P- Establishment of asbestos and lead abatement special fund.**

(a) There is established within the department of health an asbestos and lead abatement special fund into which shall be deposited all moneys collected from fees for permits, licenses, inspections, certificates, notifications, variances, investigations, and reviews.

(b) Moneys in the asbestos and lead abatement special fund shall be expended by the department to:

- (1) Partially fund the operating costs of the asbestos and lead abatement program's mandated activities and functions;
- (2) Fund statewide education, demonstration, and outreach programs;
- (3) Provide for the accreditation of training programs;
- (4) Provide training opportunities to ensure the maintenance of professional competence among staff and administrators; and
- (5) Plan for future growth and expansion to meet emerging needs.''

SECTION 2. Chapter 342P, Hawaii Revised Statutes, is amended by amending the title to read as follows:

**“[[[CHAPTER 342P]]]  
ASBESTOS AND LEAD”**

SECTION 3. Chapter 342P, Hawaii Revised Statutes, is amended by amending part III to read as follows:

### “PART III. ASBESTOS EMISSION AND LEAD HAZARD CONTROL

[[§342P-40]] **Prohibition.** No person, including any public body, shall engage in any activity that causes [an emission.] a violation of this chapter.

[[§342P-41]] **Powers and duties; specific.** The director may:

- (1) Establish emission and lead hazard exposure standards for the State as a whole or for any part thereof, including an indoor nonoccupational exposure standard;
- (2) Establish a model accreditation program[; and] as recommended by the United States Environmental Protection Agency for training for provider certification and accreditation requirements;
- (3) Establish work practice standards and notification requirements for the demolition and renovation of facilities containing asbestos[.] and for lead-based abatement activities in dwellings and child-occupied facilities; and
- (4) Establish procedures for issuance of reasonable fees for notifications, certifications, and licenses.

[[§342P-42]] **Recordkeeping and monitoring requirements.** The director may require the owner or operator of any asbestos or lead abatement activity to:

- (1) Establish and maintain such records;
- (2) Make such reports;
- (3) Install, use, and maintain such monitoring equipment or methods;
- (4) Monitor hazards;
- [(4)] (5) Sample such emissions; and
- [(5)] (6) Provide such other information; as the department may require.

[[§342P-43]] **Complaints; hearings; appointment of masters.** The director may:

- (1) Receive or initiate complaints on asbestos pollution[.] or lead hazard violations, hold hearings in connection with asbestos pollution[.] or lead hazards violations, and institute legal proceedings in the name of the State for the prevention, control, or abatement of asbestos pollution[; and] or lead hazards; and
- (2) Appoint a master or masters to conduct investigations and hearings.

[[§342P-44]] **Research, education, and training programs.** The director may:

- (1) Conduct and supervise research programs for the purpose of determining the causes, effects, hazards, or means to monitor or abate sources of asbestos pollution[;] or lead hazards;
- (2) With the approval of the governor, cooperate with, and receive money from, the federal government, or any political subdivision of the State, or private sources, for the study and control of asbestos pollution[; and] or lead hazards; and
- (3) Conduct and supervise statewide educational and training programs on asbestos pollution or lead hazards prevention, control, and abatement, including the preparation and distribution of information relating to asbestos pollution[.] or lead hazards.”

SECTION 4. Section 342P-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

““Abatement” means any measure or set of measures designed to permanently eliminate asbestos or lead-based paint hazards, including but not limited to removal, enclosure, encapsulation, or disposal.

“Variance” means the act of deviating from the requirements of rules adopted under this chapter or a license granted by the director to deviate from these rules.”

SECTION 5. Section 342P-3, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) In addition to any other power or duty prescribed by law and in this chapter, the director shall provide for the review of asbestos and lead abatement plans and the inspection of abatement projects within the State.

(b) The director may make, amend, and repeal state rules controlling and prohibiting asbestos pollution and lead-based paint hazards and regulating asbestos and lead abatement. All rules shall be adopted pursuant to chapter 91. Any person heard at a public hearing to adopt these rules shall be given written notice of the action taken by the department with respect to the same.”

SECTION 6. Section 342P-4, Hawaii Revised Statutes, is amended to read as follows:

**“[[§342P-4]] Inspection of premises.** The director, in accordance with any law, may enter and inspect any building or place to investigate an actual or suspected source, use, or presence of asbestos or lead to ascertain compliance or noncompliance with this chapter, any rule or standard adopted by the department pursuant to this chapter, any permit or other approval granted by the department pursuant to this chapter, or any order issued by the department pursuant to this chapter, and to make reasonable tests in connection therewith. Nothing in this section shall be construed to permit a warrantless search of a single family residence, unless the owner or occupier of the dwelling has consented to such a warrantless search.

No confidential information secured pursuant to this section by any official or employee of the department within the scope and course of the official’s or employee’s employment in the prevention, control, or abatement of asbestos or lead, shall be disclosed by the official or employee except as it relates directly to asbestos or lead and then only in connection with the official’s or employee’s official duties and within the scope and course of the official’s or employee’s employment”

SECTION 7. Section 342P-5, Hawaii Revised Statutes, is amended by amending subsections<sup>1</sup> (a) and (b) to read as follows:

**“§342P-5 Enforcement[.]; education.** (a) If the director determines that any person has violated or is in violation of this chapter, any rule adopted pursuant to this chapter, any accepted schedule, any order issued under this section, or any condition of a permit or variance issued pursuant to this chapter, the director:

- (1) Shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the alleged violation, may contain educational information necessary in performing abatement activities, and may contain an order specifying a reasonable time during which the person shall be required to take any measures that may be necessary to correct the violation, and to give periodic progress reports;



- (2) May require the alleged violator or violators to appear before the director for a hearing at a time and place specified in the notice to answer the charges complained of; and
- (3) May impose penalties as provided in section 342P-21 by sending a notice in writing, either by certified mail or by personal service, to the alleged violator or violators describing the violation.

(b) If the director determines that any person is continuing to violate this chapter, any rule adopted pursuant to this chapter, any accepted schedule, any order issued under this section, or any condition of a permit or variance issued pursuant to this chapter, after having been served notice of the violation, the director:

- (1) Shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the alleged violation and shall contain an order requiring the person to submit a written schedule within thirty days specifying the measures to be taken and the time within which the measures will be taken to bring the person into compliance with this chapter, any rule adopted pursuant to this chapter, or the conditions of any permit issued pursuant to this chapter;
- (2) Shall accept or modify the submitted schedule within sixty days of receipt of the schedule. Any schedule not acted upon after thirty days of receipt by the director shall be deemed accepted by the director;
- (3) Shall issue to the alleged violator or violators a cease and desist order against the activities that violate this chapter, any rule adopted pursuant to this chapter, or any condition of a permit or variance issued pursuant to this chapter, if that person does not submit a written schedule to the director within thirty days. This order shall remain in effect until the director accepts the written schedule; or
- (4) May impose penalties as provided in section 342P-21 by sending a notice in writing, either by certified mail or by personal service, to the alleged violator or violators describing the violation.”

SECTION 8. Section 342P-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Notwithstanding any other law to the contrary, if the governor or the director determines that an imminent peril to the public health and safety is or will be caused by an emission of asbestos or the presence of lead hazards that requires immediate action, the governor or the director, without a public hearing, may order any person causing or contributing to the emission or lead hazards to immediately reduce or stop the emission or creating the lead hazard, and may take any and all other actions as may be necessary. The order shall fix a place and time, not later than twenty-four hours thereafter, for a hearing to be held before the director.”

SECTION 9. Section 342P-20, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any person who violates this chapter, any rule adopted by the department under this chapter, or any condition in a permit or variance issued under this chapter, shall be fined not more than \$10,000 for each separate offense. Each day of each violation shall constitute a separate offense. Any action taken in court to impose or collect the penalty provided for in this subsection shall be considered a civil action.”

SECTION 10. Section 342P-22, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§342P-22]]~~ **Negligent violations.** Any person who negligently violates this chapter or any rule adopted by the department pursuant to this chapter, or any condition in a permit or variance issued under this chapter, shall be fined not less than \$2,500 nor more than \$25,000 per day for each violation or imprisoned for not more than one year, or both. If a conviction of a person is for a violation committed after a first conviction of the person under this section, punishment shall be a fine of not more than \$50,000 per day for each violation or imprisonment of not more than two years, or both.”

SECTION 11. Section 342P-23, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§342P-23]]~~ **Criminal penalties.** Any person who knowingly violates this chapter or any condition in a permit or variance issued under this chapter, shall be fined not less than \$5,000 nor more than \$50,000 per day for each violation or imprisoned for not more than three years, or both. If a conviction of a person is for a violation committed after a first conviction of the person under this section, the person shall be fined not more than \$100,000 per day for each violation or imprisoned for not more than six years, or both.”

SECTION 12. Section 324P-24,<sup>1</sup> Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any person who knowingly violates this chapter or any condition in a permit or variance issued under this chapter, and who knows at that time that the violation places another person in imminent danger of death or serious bodily injury, upon conviction, shall be fined not more than \$250,000 or imprisoned for not more than fifteen years, or both.”

SECTION 13. Section 342P-28, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§342P-28]]~~ **Fees.** The director may establish reasonable fees for the issuance of notifications, certificates, [and] licenses, permits, and variances to cover the cost of issuance thereof, and for the implementation and enforcement of the terms and conditions of permits[,] and variances not including court costs or other costs associated with any formal enforcement action. The fees shall be deposited to the credit of the [general fund.] asbestos and lead abatement special fund.”

SECTION 14. Section 342P-29, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§342P-29]]~~ **Public records; confidential information; penalties.** Asbestos or lead abatement applications and reports on emissions or lead violations submitted to the department shall be made available for inspection by the public during established office hours unless the reports contain information of a confidential nature concerning secret processes or methods of manufacture. Any officer, employee, or agent of the department, acquiring confidential information from the inspection authorized by section 342P-4, who divulges information except as authorized in this chapter or except as ordered by a court or at an administrative hearing regarding an alleged violation of this chapter or any rule or standard adopted pursuant to this chapter, shall be fined not more than \$1,000.”

SECTION 15. Section 342P-31, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§342P-31]]~~ **Enforcement by state and county authorities.** All state and county health authorities and police officers shall enforce this chapter and the rules, orders, [and] permits, and variances of the department.”

SECTION 16. Section 342P-33, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Any county may adopt ordinances and rules governing any matter relating to asbestos [control] or lead abatement that are not governed by a rule of the department adopted pursuant to this chapter; provided that any county ordinance or rule relating to asbestos [control] or lead abatement shall be void and of no effect as to any matter regulated by a rule of the department upon the adoption thereof.”

SECTION 17. All acts passed by the legislature during this regular session of 1998, whether enacted before or after the effective date of this Act, shall be amended to conform with this Act unless such acts specifically provide that this Act is being amended.

SECTION 18. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 19. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

#### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

## ACT 243

S.B. NO. 1597

A Bill for an Act Relating to Aquatic Resources Penalties.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 187A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§187A- General administrative penalties.** (a) Except as otherwise provided by law, the board is authorized to set, charge, and collect administrative fines and to recover administrative fees and costs, including attorney’s fees and costs, or bring legal action to recover administrative fines, fees, and costs, including attorney’s fees and costs, or payment for damages or for the cost to correct damages resulting from a violation of subtitle 5 of title 12 or any rule adopted thereunder.

(b) For violations involving threatened or endangered species, the administrative fines shall be as follows:

- (1) For a first violation, a fine of not more than \$5,000;
- (2) For a second violation within five years of a previous violation, a fine of not more than \$10,000; and
- (3) For a third or subsequent violation within five years of the last violation, a fine of not more than \$15,000.

- (c) For all other violations the administrative fines shall be as follows:
- (1) For a first violation, a fine of not more than \$1,000;
  - (2) For a second violation within five years of a previous violation, a fine of not more than \$2,000; and
  - (3) For a third or subsequent violation within five years of the last violation, a fine of not more than \$3,000.

(d) In addition to subsection (b), a fine of up to \$5,000 may be levied for each specimen of threatened or endangered aquatic life taken, killed, or injured in violation of subtitle 5 of title 12 or any rule adopted thereunder.

(e) In addition to subsection (c), a fine of up to \$1,000 may be levied for each specimen of all other aquatic life taken, killed, or injured in violation of subtitle 5 of title 12 or any rule adopted thereunder.

(f) Any criminal penalty for any violation of subtitle 5 of title 12 or any rule adopted thereunder shall not be deemed to preclude the State from recovering additional administrative fines, fees, and costs, including attorney's fees and costs."

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 244**

S.B. NO. 2025

A Bill for an Act Relating to Plant and Non-Domestic Animal Quarantine.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 150A-6, Hawaii Revised Statutes, is amended to read as follows:

**“§150A-6 Soil, plants, animals, etc., importation or possession prohibited.** (a) No person shall transport, receive for transport, or cause to be transported to the State, for the purpose of debarkation or entry thereinto, any of the following:

- (1) Soil; provided that limited quantities of soil may be imported into the State for experimental or other scientific purposes under permit with conditions prescribed by the department;
- (2) Rocks, plants, plant products, or any article with soil adhering thereto;
- (3) Any live snake, flying fox, fruit bat, Gila monster, injurious insect, or eels of the order Anguilliformes, or any other animal, plant, or micro-organism in any stage of development that is detrimental or potentially harmful to agriculture, horticulture, animal or public health, or natural resources, including native biota, or has an adverse effect on the environment as determined by the board; provided that a government agency may bring into and maintain in the State not more than two live, nonvenomous snakes of the male sex solely for the purpose of exhibition in a government zoo, but only after:
  - (A) The board is presented with satisfactory evidence that the sex of the snakes was established to be male prior to the shipment; and
  - (B) The board gives written approval conditioned upon such terms as the board may deem necessary, which terms shall include the

continuing supervision and control by the board, and shall provide that the board may determine the manner in which the snakes shall be disposed of or destroyed.

In case of the death of one or both snakes, the government agency may import and maintain replacements subject to the conditions described in this paragraph; and

- (4) Any live or dead honey bees, or used bee equipment that is not certified by the department to be free of pests; provided that nothing in this paragraph shall be construed to prohibit the importation of bee semen.
- (b) The board shall maintain:
  - (1) A list of [conditionally approved] conditionally-approved animals and microorganisms that require a permit for import into the State;
  - (2) A list of restricted animals and microorganisms that require a permit for both import into the State and possession; and
  - (3) A list of animals and microorganisms that are prohibited entry into the State.

Animals and microorganisms on the lists of [conditionally approved] conditionally-approved and restricted animals and microorganisms shall be imported only by permit. Any animal or microorganism that is not on the lists of [conditionally approved,] conditionally-approved, restricted, or prohibited animals and microorganisms shall be prohibited until the board's review and determination for placement on one of these lists; provided that the department may issue a special permit on a [case by case] case-by-case basis for the importation and possession of an animal or a microorganism that is not on the lists of prohibited, restricted, or [conditionally approved] conditionally-approved animals or microorganisms, for the purpose of remediating medical emergencies or agricultural or ecological disasters, or conducting medical or scientific research in a manner that the animal or microorganism will not be detrimental to agriculture, the environment, or humans if the importer of the animal or microorganism can meet permit requirements consistent with Centers for Disease Control and National Institute of Health guidelines or other guidelines as determined by the board; and provided further that the department may issue a short-term special permit on a [case by case] case-by-case basis not to exceed ninety days for the importation and possession of an animal that is not on the list of prohibited, restricted, or conditionally-approved animals for the purpose of filming, performance, or exhibition if the importer of the animal can meet permit and bonding requirements as determined by the board. All permits referenced in this section shall be issued pursuant to rules and any violation of the conditions listed on the permits shall be a violation of this section.

(c) The board shall maintain a list of restricted plants and a list of prohibited plants. Restricted plants shall not be imported into the State without a permit issued pursuant to rules, and any violation of the conditions listed on the permit shall be a violation of this section.

(d) No person shall possess, propagate, sell, transfer, or harbor any plant, animal, or microorganism included on the list or lists of prohibited plants, animals, and microorganisms maintained by the board under this section, except as allowed by the board upon a determination that the species:

- (1) Was initially permitted entry and later prohibited entry into the State; or
- (2) Was continually prohibited but unlawfully introduced and is currently established in the State; and
- (3) Is not significantly harmful to agriculture, horticulture, animal or public health, and the environment.

Under the circumstances described in this subsection, the board may permit possession of the individual plant, animal, or microorganism through its registration with

## ACT 245

the department while still prohibiting the same species of plant, animal, or micro-organism from importation, propagation, transfer, and sale.

(e) Without regard to the notice and public hearing requirements of chapter 91, the board may adopt rules to make additions to or deletions from the lists required to be maintained in subsections (b) and (c); provided that the board shall adopt rules pursuant to chapter 91 to establish methods to obtain public input and to notify the public as to any additions to or deletions from the lists required under subsections (b) and (c)."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

## ACT 245

S.B. NO. 2026

A Bill for an Act Relating to Small Business Innovation Research Grants.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. To make Hawaii small business competitive with mainland applicants for federal phase II awards, Act 196, Session Laws of Hawaii 1989, authorized the high technology development corporation to make grants supplementing federal small business innovation research phase I awards or contracts.

The purpose of this Act is to acknowledge that grants awarded by the high technology development corporation to supplement federal small business innovation research phase I awards or contracts were intended to be exempt from the general excise tax as an extension of the exemption allowed under section 237-26, Hawaii Revised Statutes (exemption of certain scientific contracts with the United States).

SECTION 2. Section 237-24.7, Hawaii Revised Statutes, is amended to read as follows:

**"§237-24.7 Additional amounts not taxable.** In addition to the amounts not taxable under section 237-24, this chapter shall not apply to:

- (1) Amounts received by the operator of a hotel from the owner of the hotel in amounts equal to and which are disbursed by the operator for employee wages, salaries, payroll taxes, insurance premiums, and benefits, including retirement, vacation, sick pay, and health benefits. As used in this paragraph:

    "Employee" means employees directly engaged in the [day to day] day-to-day operation of the hotel and employed by the operator.

    "Hotel" means an operation licensed under section 445-92.

    "Operator" means any person who, pursuant to a written contract with the owner of a hotel, operates or manages the hotel for the owner.

    "Owner" means the fee owner or lessee under a recorded lease of a hotel;

- (2) Amounts received by the operator of a county transportation system operated under an operating contract with a political subdivision, where

the political subdivision is the owner of the county transportation system. As used in this paragraph:

“County transportation system” means a mass transit system of motorized buses providing regularly scheduled transportation within a county.

“Operating contract” or “contract” means a contract to operate and manage a political subdivision’s county transportation system, which provides that:

- (A) The political subdivision shall exercise substantial control over all aspects of the operator’s operation;
- (B) The political subdivision controls the development of transit policy, service planning, routes, and fares; and
- (C) The operator develops in advance a draft budget in the same format as prescribed for agencies of the political subdivision. The budget must be subject to the same constraints and controls regarding the lawful expenditure of public funds as any public sector agency, and deviations from the budget must be subject to approval by the appropriate political subdivision officials involved in the budgetary process.

“Operator” means any person who, pursuant to an operating contract with a political subdivision, operates or manages a county transportation system.

“Owner” means a political subdivision that owns or is the lessee of all the properties and facilities of the county transportation system (including buses, real estate, parking garages, fuel pumps, maintenance equipment, office supplies, etc.), and that owns all revenues derived therefrom;

- (3) Surcharge taxes on rental motor vehicles imposed by chapter 251 and passed on and collected by persons holding certificates of registration under that chapter;
- (4) Amounts received by the operator of orchard properties from the owner of the orchard property in amounts equal to and which are disbursed by the operator for employee wages, salaries, payroll taxes, insurance premiums, and benefits, including retirement, vacation, sick pay, and health benefits. As used in this paragraph:

“Employee” means an employee directly engaged in the [day to day] day-to-day operations of the orchard properties and employed by the operator.

“Operator” means a producer who, pursuant to a written contract with the owner of the orchard property, operates or manages the orchard property for the owner where the property contains an area sufficient to make the undertaking economically feasible.

“Orchard property” means any real property that is used to raise trees with a production life cycle of fifteen years or more producing fruits or nuts having a normal period of development from the initial planting to the first commercially saleable harvest of not less than three years.

“Owner” means a fee owner or lessee under a recorded lease of orchard property;

- (5) Taxes on nursing facility income imposed by chapter 346E and passed on and collected by operators of nursing facilities;
- (6) Amounts received under property and casualty insurance policies for damage or loss of inventory used in the conduct of a trade or business

located within the State or a portion thereof that is declared a natural disaster area by the governor pursuant to section 209-2;

- (7) Amounts received as compensation by community organizations, school booster clubs, and nonprofit organizations under a contract with the chief election officer for the provision and compensation of precinct officials and other [election related] election-related personnel, services, and activities, pursuant to section 11-5; [and]
- (8) Interest received by a person domiciled outside the State from a trust company (as defined in section 412:8-101) acting as payment agent or trustee on behalf of the issuer or payees of an interest bearing instrument or obligation, if the interest would not have been subject to tax under this chapter if paid directly to the person domiciled outside the State without the use of a paying agent or trustee; provided that if the interest would otherwise be taxable under this chapter if paid directly to the person domiciled outside the State, it shall not be exempt solely because of the use of a Hawaii trust company as a paying agent or trustee[.]; and
- (9) Amounts received as grants under section 206M-15.''

SECTION 3. Any refunds that may be due shall be paid according to section 231-23, Hawaii Revised Statutes, and the three-year limitation period set out in section 237-40, Hawaii Revised Statutes, shall not apply for the purposes of general excise tax payments on amounts received as grants under section 206M-15, Hawaii Revised Statutes. All claims for tax refunds under this Act, including any amended claims, must be filed on or before December 31, 1999. Failure to comply with the foregoing section shall constitute a waiver of the right to claim the refund.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 1998.

(Approved July 20, 1998.)

**ACT 246**

S.B. NO. 2037

A Bill for an Act Relating to Health Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to article 10A to be appropriately designated and to read as follows:

“§431:10A- **Emergency medical services.** (a) As used in this section unless the context otherwise requires:

“Emergency medical condition” means a medical condition that manifests itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

- (1) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
- (2) Serious impairment to bodily functions; or



(3) Serious dysfunction of any bodily organ or part.

“Emergency services” means:

- (1) A medical screening examination (as required by federal law) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department, to evaluate an emergency medical condition; or
- (2) Such further medical examination and treatment (as required by federal law) that is within the capabilities of the staff and facilities available at the hospital (including any trauma and burn center of the hospital), to stabilize an emergency medical condition.

“Stabilize” means the provision of medical treatment as may be necessary to assure, within reasonable medical probability, that no material deterioration of an individual’s medical condition is likely to result from or occur during a transfer to another facility, if the medical condition could result in:

- (1) Placing the health of the individual (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
- (2) Serious impairment to bodily functions; or
- (3) Serious dysfunction of any bodily organ or part.

In the case of a woman having contractions, “stabilize” means medical treatment as may be necessary to deliver (including the placenta).

“Stabilized” means that no material deterioration of an individual’s medical condition, as described in this subsection, is likely, within reasonable medical probability, to result from or occur during the transfer of the individual from a facility, or in the case of a woman having contractions, that the woman has delivered (including the placenta).

(b) A health plan shall cover emergency services provided twenty-four hours a day, seven days a week to members with emergency medical conditions without regard to whether the member, or an emergency provider treating the member, obtained prior authorization for these services.

(c) A health plan shall cover emergency services provided to a member at a participating emergency department if the member presents oneself with an emergency medical condition.

(d) A health plan shall cover emergency services provided to a member at a nonparticipating emergency department up to the point of stabilization if:

- (1) The member presents oneself with an emergency medical condition; and
  - (2) One of the following applies:
    - (A) Due to circumstances beyond the member’s control, the member was unable to arrive at a participating emergency department without serious threat to life or health;
    - (B) A prudent layperson possessing an average knowledge of health and medicine would have reasonably believed that, under the circumstances, the time required to go to a participating emergency provider or department could result in one or more of the following:
      - (i) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
      - (ii) Serious impairment to bodily functions; or
      - (iii) Serious dysfunction of any bodily organ or part;
- or

(C) A person authorized by the health plan refers the member to an emergency department and does not specify a participating emergency department.

(e) Except as provided in subsection (f), a health plan shall not be required to reimburse an emergency provider or an emergency department for any services, other than those medically necessary to stabilize a member, until:

- (1) The emergency department has contacted the member's health benefits plan; and
- (2) There is agreement between the emergency provider and the plan concerning treatment and services to be provided by the emergency provider after the member is stabilized.

(f) A health plan shall reimburse an emergency provider and an emergency department for any items or services not necessary to stabilize the patient but that are determined to be medically necessary to treat the illness that lead the patient to believe that he or she had an emergency medical condition, and that a reasonable patient would expect to receive from a physician at the time of presentation.

(g) A health plan that arranges for, or otherwise covers, urgent care services and comprehensive primary care may impose different cost-sharing on the member for:

- (1) Use of an emergency department over another setting; and
- (2) Use of a nonparticipating emergency department over a participating emergency department unless:
  - (A) Due to circumstances beyond the member's control, the member was unable to arrive at a participating emergency department without serious threat to life or health; or
  - (B) A prudent layperson possessing an average knowledge of health and medicine would have reasonably believed that, under the circumstances, the time required to go to a participating emergency department could result in one or more of the following:
    - (i) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
    - (ii) Serious impairment to bodily functions; or
    - (iii) Serious dysfunction of any bodily organ or part.

(h) A health plan that provides coverage for emergency medical services shall educate members on:

- (1) Coverage for emergency medical services;
- (2) The appropriate use of emergency services, including the use of the 911 system and other telephone access systems used to access prehospital emergency services;
- (3) Any cost sharing provisions for emergency services; and
- (4) The procedures for obtaining emergency and other medical services so that members are familiar with the location of in-plan emergency departments and with the location and availability of other in-plan settings at which they could receive medical care."

SECTION 2. Chapter 432, Hawaii Revised Statutes, is amended by adding a new section to article 1 to be appropriately designated and to read as follows:

**“§432:1- Emergency medical services.** (a) As used in this section unless the context otherwise requires:

“Emergency medical condition” means a medical condition that manifests itself by acute symptoms of sufficient severity, including severe pain, such that a

prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

- (1) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
- (2) Serious impairment to bodily functions; or
- (3) Serious dysfunction of any bodily organ or part.

“Emergency services” means:

- (1) A medical screening examination (as required by federal law) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department, to evaluate an emergency medical condition; or
- (2) Such further medical examination and treatment (as required by federal law) that is within the capabilities of the staff and facilities available at the hospital (including any trauma and burn center of the hospital), to stabilize an emergency medical condition.

“Stabilize” means the provision of medical treatment as may be necessary to assure, within reasonable medical probability, that no material deterioration of an individual’s medical condition is likely to result from or occur during a transfer to another facility, if the medical condition could result in:

- (1) Placing the health of the individual (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
- (2) Serious impairment to bodily functions; or
- (3) Serious dysfunction of any bodily organ or part.

In the case of a woman having contractions, “stabilize” means medical treatment as may be necessary to deliver (including the placenta).

“Stabilized” means that no material deterioration of an individual’s medical condition, as described in this subsection, is likely, within reasonable medical probability, to result from or occur during the transfer of the individual from a facility, or in the case of a woman having contractions, that the woman has delivered (including the placenta).

(b) A health plan shall cover emergency services provided twenty-four hours a day, seven days a week to members with emergency medical conditions without regard to whether the member, or an emergency provider treating the member, obtained prior authorization for these services.

(c) A health plan shall cover emergency services provided to a member at a participating emergency department if the member presents oneself with an emergency medical condition.

(d) A health plan shall cover emergency services provided to a member at a nonparticipating emergency department up to the point of stabilization if:

- (1) The member presents oneself with an emergency medical condition; and
- (2) One of the following applies:
  - (A) Due to circumstances beyond the member’s control, the member was unable to arrive at a participating emergency department without serious threat to life or health;
  - (B) A prudent layperson possessing an average knowledge of health and medicine would have reasonably believed that, under the circumstances, the time required to go to a participating emergency provider or department could result in one or more of the following:

- (i) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
    - (ii) Serious impairment to bodily functions; or
    - (iii) Serious dysfunction of any bodily organ or part;or
  - (C) A person authorized by the health plan refers the member to an emergency department and does not specify a participating emergency department.
- (e) Except as provided in subsection (f), a health plan shall not be required to reimburse an emergency provider or an emergency department for any services, other than those medically necessary to stabilize a member, until:
- (1) The emergency department has contacted the member's health benefits plan; and
  - (2) There is agreement between the emergency provider and the plan concerning treatment and services to be provided by the emergency provider after the member is stabilized.
- (f) A health plan shall reimburse an emergency provider and an emergency department for any items or services not necessary to stabilize the patient but that are determined to be medically necessary to treat the illness that lead the patient to believe that he or she had an emergency medical condition, and that a reasonable patient would expect to receive from a physician at the time of presentation.
- (g) A health plan that arranges for, or otherwise covers, urgent care services and comprehensive primary care may impose different cost-sharing on the member for:
- (1) Use of an emergency department over another setting; and
  - (2) Use of a nonparticipating emergency department over a participating emergency department unless:
    - (A) Due to circumstances beyond the member's control, the member was unable to arrive at a participating emergency department without serious threat to life or health; or
    - (B) A prudent layperson possessing an average knowledge of health and medicine would have reasonably believed that, under the circumstances, the time required to go to a participating emergency department could result in one or more of the following:
      - (i) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
      - (ii) Serious impairment to bodily functions; or
      - (iii) Serious dysfunction of any bodily organ or part.
- (h) A health plan that provides coverage for emergency medical services shall educate members on:
- (1) Coverage for emergency medical services;
  - (2) The appropriate use of emergency services, including the use of the 911 system and other telephone access systems used to access prehospital emergency services;
  - (3) Any cost sharing provisions for emergency services; and
  - (4) The procedures for obtaining emergency and other medical services so that members are familiar with the location of in-plan emergency departments and with the location and availability of other in-plan settings at which they could receive medical care."

SECTION 3. Chapter 432D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§432D- Emergency medical services.** (a) As used in this section unless the context otherwise requires:

“Emergency medical condition” means a medical condition that manifests itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

- (1) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
- (2) Serious impairment to bodily functions; or
- (3) Serious dysfunction of any bodily organ or part.

“Emergency services” means:

- (1) A medical screening examination (as required by federal law) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department, to evaluate an emergency medical condition; or
- (2) Such further medical examination and treatment (as required by federal law) that is within the capabilities of the staff and facilities available at the hospital (including any trauma and burn center of the hospital), to stabilize an emergency medical condition.

“Stabilize” means the provision of medical treatment as may be necessary to assure, within reasonable medical probability, that no material deterioration of an individual’s medical condition is likely to result from or occur during a transfer to another facility, if the medical condition could result in:

- (1) Placing the health of the individual (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
- (2) Serious impairment to bodily functions; or
- (3) Serious dysfunction of any bodily organ or part.

In the case of a woman having contractions, “stabilize” means medical treatment as may be necessary to deliver (including the placenta).

“Stabilized” means that no material deterioration of an individual’s medical condition, as described in this subsection, is likely, within reasonable medical probability, to result from or occur during the transfer of the individual from a facility, or in the case of a woman having contractions, that the woman has delivered (including the placenta).

(b) A health plan shall cover emergency services provided twenty-four hours a day, seven days a week to members with emergency medical conditions without regard to whether the member, or an emergency provider treating the member, obtained prior authorization for these services.

(c) A health plan shall cover emergency services provided to a member at a participating emergency department if the member presents oneself with an emergency medical condition.

(d) A health plan shall cover emergency services provided to a member at a nonparticipating emergency department up to the point of stabilization if:

- (1) The member presents oneself with an emergency medical condition; and
- (2) One of the following applies:
  - (A) Due to circumstances beyond the member’s control, the member was unable to arrive at a participating emergency department without serious threat to life or health;

- (B) A prudent layperson possessing an average knowledge of health and medicine would have reasonably believed that, under the circumstances, the time required to go to a participating emergency provider or department could result in one or more of the following:
  - (i) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
  - (ii) Serious impairment to bodily functions; or
  - (iii) Serious dysfunction of any bodily organ or part;
 or
- (C) A person authorized by the health plan refers the member to an emergency department and does not specify a participating emergency department.

(e) Except as provided in subsection (f), a health plan shall not be required to reimburse an emergency provider or an emergency department for any services, other than those medically necessary to stabilize a member, until:

- (1) The emergency department has contacted the member's health benefits plan; and
- (2) There is agreement between the emergency provider and the plan concerning treatment and services to be provided by the emergency provider after the member is stabilized.

(f) A health plan shall reimburse an emergency provider and an emergency department for any items or services not necessary to stabilize the patient but that are determined to be medically necessary to treat the illness that lead the patient to believe that he or she had an emergency medical condition, and that a reasonable patient would expect to receive from a physician at the time of presentation.

(g) A health plan that arranges for, or otherwise covers, urgent care services and comprehensive primary care may impose different cost-sharing on the member for:

- (1) Use of an emergency department over another setting; and
- (2) Use of a nonparticipating emergency department over a participating emergency department unless:
  - (A) Due to circumstances beyond the member's control, the member was unable to arrive at a participating emergency department without serious threat to life or health; or
  - (B) A prudent layperson possessing an average knowledge of health and medicine would have reasonably believed that, under the circumstances, the time required to go to a participating emergency department could result in one or more of the following:
    - (i) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
    - (ii) Serious impairment to bodily functions; or
    - (iii) Serious dysfunction of any bodily organ or part.

(i)<sup>1</sup> A health plan that provides coverage for emergency medical services shall educate members on:

- (1) Coverage for emergency medical services;
- (2) The appropriate use of emergency services, including the use of the 911 system and other telephone access systems used to access prehospital emergency services;
- (3) Any cost sharing provisions for emergency services; and
- (4) The procedures for obtaining emergency and other medical services so that members are familiar with the location of in-plan emergency

departments and with the location and availability of other in-plan settings at which they could receive medical care.”

SECTION 4. New statutory material is underscored.<sup>2</sup>

SECTION 5. This Act shall take effect on July 1, 1998; and shall be repealed on July 1, 2003.

(Approved July 20, 1998.)

#### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.

## ACT 247

S.B. NO. 2065

A Bill for an Act Relating to the General Excise Tax.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 237, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§237- Exemption for sale of tangible personal property for resale at wholesale.** (a) There shall be exempted from, and excluded from the measure of, the taxes imposed by this chapter all of the gross proceeds or gross income arising from the sale of tangible personal property imported to Hawaii from a foreign or domestic source to a licensed taxpayer for subsequent resale for the purpose of wholesale as defined under section 237-4.

(b) The department, by rule, may provide that a seller may take from the purchaser of imported tangible personal property, a certificate, in a form that the department shall prescribe, certifying that the purchaser of the imported tangible personal property shall resell the imported tangible personal property at wholesale as defined under section 237-4. Any purchaser who furnishes a certificate shall be obligated to pay to the seller, upon demand, if the sale in fact is not a sale for the purpose of resale at wholesale, the amount of the additional tax which by reason thereof is imposed upon the seller. The absence of a certificate, unless the sales of the business are exclusively a sale for the purpose of resale at wholesale, in itself, shall give rise to the presumption that the sale is not a sale for the purpose of resale at wholesale.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect on July 1, 1998.

(Approved July 20, 1998.)

#### Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Unfair and Deceptive Trade Practices.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 2 of Act 214, Session Laws of Hawaii 1990, as amended by section 2 of Act 240, Session Laws of Hawaii 1991, section 3 of Act 231, Session Laws of Hawaii 1992, and section 1 of Act 174, Session Laws of Hawaii 1995, is amended to read as follows:

“SECTION 2. This Act shall take effect upon its approval[, and shall be repealed June 30, 1998].”

SECTION 2. Section 6 of Act 231, Session Laws of Hawaii 1992, as amended by section 2 of Act 174, Session Laws of Hawaii 1995, is amended to read as follows:

“SECTION 6. This Act shall take effect on September 1, 1992[, and shall be repealed on June 30, 1998].”

SECTION 3. Statutory material to be repealed is bracketed.

SECTION 4. This Act shall take effect on June 29, 1998.

(Approved July 20, 1998.)

A Bill for an Act Relating to Liquor Control Adjudication Board.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 281-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Liquor control adjudication board” or “board” means a board established by county charter, within a county, that shall have the jurisdiction to hear and determine complaints or violations of liquor laws and to impose penalties as may be provided in this chapter.”

SECTION 2. Section 281-11, Hawaii Revised Statutes, is amended to read as follows:

**“§281-11 County liquor commissions[;] and liquor control adjudication boards; qualifications; compensation.** (a) A liquor commission[.] or liquor control adjudication board, consisting of not less than five members, no more than [three] the minimum required for a quorum of whom shall belong to the same political party at the time of appointment, [is] may be created for each of the counties. The elected executive head of each county [shall] may nominate, and by and with the advice and consent of the legislative body of the county, shall appoint the members of the commissions[.] and boards. The elected executive head of each county, by and with the advice and consent of the legislative body of the county, may remove from office



any of [such] the members. The commission or board shall designate one of its members as chairperson. Each member shall be a citizen of the United States and shall have resided in the county for which appointed for at least three years immediately preceding the date of the member's appointment.

(b) Upon the expiration of the term of each commissioner[,] or board member, the commissioner's or board member's successor shall be appointed for a term to expire five years from the date of the expiration of the preceding term.

The tenure in office of every commissioner or board member shall be for the terms provided and until their successors are duly appointed and qualified.

Any vacancy shall be filled by appointment for the remainder of the unexpired term. No person shall be a member of any commission or board who is or becomes engaged, or is directly or indirectly interested in any business for the manufacture or sale of liquor or who advocates or is or becomes a member of, or is identified or connected with, any organization or association which advocates prohibition, or who is an elected officer of [the] the state or county government or who presents oneself as a candidate for election to any public office during the term of the person's appointment hereunder. This provision shall be enforced by the elected executive head of the county by the removal of the disqualified member whenever such disqualifications shall appear.

(c) The amount of compensation and reasonable expenses for travel and other costs necessarily incident to the discharge of the members' duties shall be established by each county.

(d) Each member of the commission[,] or board, before entering upon the duties of the member's office, shall take and subscribe to an oath that the member will faithfully perform such duties according to law, which written oath shall be filed with the elected executive head of each county."

SECTION 3. Section 281-11.5, Hawaii Revised Statutes, is amended to read as follows:

**“§281-11.5 Liquor commission and board attorney.** The liquor commission or liquor control adjudication board may hire attorneys to assist it in carrying out its administrative functions under this chapter. The assistance may include providing legal advice and prosecuting and defending legal claims under this chapter or arising in connection with this chapter.”

SECTION 4. Section 281-12, Hawaii Revised Statutes, is amended to read as follows:

**“§281-12 Commission and board office.** The council of each county shall furnish the liquor commission and the liquor control adjudication board of [such] the county suitable quarters for its meetings, the transaction of its business, and the keeping of its records. The office of the commission and board shall at all times be open for the transaction of its business during its prescribed business hours.”

SECTION 5. Section 281-13, Hawaii Revised Statutes, is amended to read as follows:

**“§281-13 Meetings.** Meetings of the liquor commission or the liquor control adjudication board may be held at any time and as often from time to time as the commission or board deems necessary for the proper transaction of its business, upon call of the chairperson or by any other two members of the commission[,] or board. The administrator shall give notice of [such] the meetings as the commission

or board may prescribe to the several members, and give any other notice thereof directed by the commission[,] or board.

A majority of all the members of the commission or board shall constitute a quorum for the transaction of business, but the affirmative vote of a majority of all of the members shall be necessary to determine any matter before it.”

SECTION 6. Section 281-14, Hawaii Revised Statutes, is amended to read as follows:

“**§281-14 Records.** The liquor commission and liquor control adjudication board shall ensure that complete records are kept of all commission and board meetings, proceedings, and acts with reference to all business pertaining to licenses issued, suspended, and revoked, moneys received as license fees and otherwise, and disbursements by the commission or board or under its authority. Unless otherwise prohibited by law, these records shall be open for examination by the public. The records may be destroyed as provided in section 46-43.”

SECTION 7. Section 281-16, Hawaii Revised Statutes, is amended to read as follows:

“**§281-16 County liquor commission and liquor control adjudication board funds; disposition of realization; payment of expenses.** All fees and other moneys collected or received by each liquor commission or liquor control adjudication board under this chapter shall be paid not less than weekly into the general fund of the respective county or a special fund as provided by ordinance. All expenses of the commission[,] or board, including any expenses and compensation of its members and expenses and salaries of its subordinates, shall be paid in the manner provided by ordinance.”

SECTION 8. Section 281-17, Hawaii Revised Statutes, is amended to read as follows:

“**§281-17 Jurisdiction and powers.** The liquor commission, within its own county, shall have the sole jurisdiction, power, authority, and discretion, subject only to this chapter:

- (1) To grant, refuse, suspend, and revoke any licenses for the manufacture, importation, and sale of liquors;
- (2) To take appropriate action against a person who, directly or indirectly, manufactures or sells any liquor without being authorized pursuant to this chapter; provided that in counties which have established by charter a liquor control adjudication board, the board shall have the jurisdiction, power, authority, and discretion to hear and determine administrative complaints of the director regarding violations of the liquor laws of the State or of the rules of the liquor commission, and impose penalties of violations thereof as may be provided by law;
- (3) To control, supervise, and regulate the manufacture, importation, and sale of liquors by investigation, enforcement, and education; provided that any educational program shall be limited to licensees and their employees and shall be financed through the money collected from the assessment of fines against licensees;
- (4) From time to time to make, amend, and repeal such rules, not inconsistent with this chapter, as in the judgment of the commission seem appropriate for carrying out this chapter and for the efficient administration thereof, and the proper conduct of the business of all licensees,

- including every matter or thing required to be done or which may be done with the approval or consent or by order or under the direction or supervision of or as prescribed by the commission; which rules, when adopted as provided in chapter 91 shall have the force and effect of law;
- (5) Subject to chapters 76 and 77, to appoint and remove an administrator, who may also be appointed an investigator and who shall be responsible for the operations and activities of the staff. The administrator may hire and remove hearing officers, investigators, and clerical or other assistants as its business may from time to time require, to prescribe their duties, and fix their compensation; to engage the services of experts and persons engaged in the practice of a profession, if deemed expedient. Every investigator, within the scope of the investigator's duties, shall have the powers of a police officer. No employee of any commission, aside from exercising the right to vote, shall support, advocate, or aid in the election or defeat of any candidate for public office, and upon satisfactory proof of such prohibited activity the offender shall be summarily dismissed;
  - (6) To limit the number of licenses of any class or kind within the county, or the number of licenses of any class or kind to do business in any given locality, when in the judgment of the commission such limitations are in the public interest;
  - (7) To prescribe the nature of the proof to be furnished, the notices to be given, and the conditions to be met or observed in case of the issuance of a duplicate license in place of one alleged to have been lost or destroyed, including a requirement of any indemnity deemed appropriate to the case;
  - (8) To fix the hours between which licensed premises of any class or classes may regularly be open for the transaction of business, which shall be uniform throughout the county as to each class respectively;
  - (9) To prescribe all forms to be used for the purposes of this chapter not otherwise provided for in this chapter, and the character and manner of keeping of books, records, and accounts to be kept by licensees in any matter pertaining to their business;
  - (10) To investigate violations of this chapter, chapter 244D and, notwithstanding any law to the contrary, violations of the applicable department of health's allowable noise levels, through its investigators or otherwise, to include covert operations, and to report [such] violations to the prosecuting officer for prosecution and, where appropriate, the director of taxation to hear and determine complaints against any licensee;
  - (11) To prescribe, by rule, the terms, conditions, and circumstances under which persons or any class of persons may be employed by holders of [dispensers' and cabaret] licenses;
  - (12) To prescribe, by rule, the term of any license or solicitor's and representative's permit authorized by this chapter, the annual or prorated amount [and], the manner of payment of fees for [such] the licenses and permits, and the amount of filing fees; and
  - (13) To prescribe, by rule, the circumstances and penalty for the unauthorized manufacturing or selling of any liquor.

Subject only to this chapter, the commission or board and each member thereof shall have the same powers respecting the administering of oaths, compelling the attendance of witnesses and the production of documentary evidence, and examining the witnesses as are possessed by a circuit court, except that the commission or board and each member thereof shall not be bound by the strict legal rules of

evidence. In addition, the commission or board shall have the power to require the production of, and to examine any books, papers, and records of any licensee which may pertain to the licensee's business under the license or which may pertain to a matter at a hearing before the commission or board or to an investigation by the commission[.] or board.

The exercise by the commission or board of the power, authority, and discretion vested in it pursuant to this chapter shall be final and shall not be reviewable by or appealable to any court or tribunal, except as otherwise provided in this chapter or chapter 91."

SECTION 9. Section 281-19, Hawaii Revised Statutes, is amended to read as follows:

**"§281-19 Hearings, attendance, examinations.** If any person subpoenaed as a witness to attend before the liquor commission[.] or liquor control adjudication board, or to produce any books, papers, or records called for by the process of the commission[.] or board, fails or refuses to respond thereto, or refuses to answer questions propounded by any member of the commission or board or its counsel material to the matter pending before the commission[.] or board, the circuit court of the circuit within which the licensed premises involved are situated, upon request of the commission[.] or board, shall have power to compel obedience to any process of the commission or board and require [such] the witness to answer questions put to the witness, and to punish, as a contempt of the court, any refusal to comply therewith without good cause shown therefor.

False swearing by any witness before the commission or board, shall constitute perjury and be punished as such, and whenever the commission or board is satisfied that a witness has sworn falsely in any hearing or investigation before the commission[.] or board, it shall report the same to the prosecuting officer for prosecution."

SECTION 10. Section 281-21, Hawaii Revised Statutes, is amended to read as follows:

**"§281-21 Service of subpoenas by investigators, police officers, or other law enforcement officers; witnesses' fees.** Any investigator, police officer, or other law enforcement officer may serve any subpoena issued by the liquor commission[.] or liquor control adjudication board.

Every witness attending or testifying at any hearing of the commission or board in response to a subpoena issued by it shall be paid as provided for in section 621-7. If a witness is subpoenaed by direction of the commission[.] or board, the witness' fees shall be paid out of any funds which may be set aside for the expenses of the commission or board and, if the witness is subpoenaed on behalf of any interested party, the witness' fees shall be paid by [such] that party."

SECTION 11. Section 281-71, Hawaii Revised Statutes, is amended to read as follows:

**"§281-71 Posting of license.** Every license issued and in effect under this chapter shall at all times be conspicuously posted and exposed to view, convenient for inspection, on the licensed premises. For failure thereof the license may be suspended or revoked by the liquor commission[.] or liquor control adjudication board."

SECTION 12. Section 281-91, Hawaii Revised Statutes, is amended to read as follows:

**“§281-91 Revocation or suspension of license; hearing.** The liquor commission or liquor control adjudication board may revoke any license at any time issued, or suspend the right of the licensee to use the licensee’s license, or assess and collect a penalty, or reprimand the licensee, either for the violation of any condition of the license or of any provisions of this chapter or of any rule or regulation applicable thereto, or upon the conviction in a court of law of the licensee of any violation of this chapter or of any other law relative to the licensee’s license or the proper exercise thereof, or of any violation of law in any other respect on account whereof the commission or board may deem the licensee to be an unfit or improper person to hold a license, or for any other cause deemed sufficient by the commission[.] or board.

In every case where it is proposed to revoke or suspend the exercise of any license or assess and collect a penalty for any cause other than a conviction at law of the licensee as above specified, the licensee shall be entitled to notice and hearing in conformity with chapter 91, the notice to be given at least five days before the hearing, except that any special license shall be subject to summary revocation for any violation of or evidence of intent to violate the proper exercise thereof, without hearing before the commission[.] or board.

At the hearing, before final action is taken by the commission[,] or board, the licensee shall be entitled to be heard in person or through counsel and shall be given a full and fair opportunity to present any facts showing that the alleged cause or causes for the proposed action do not exist, or any reasons why no penalty should be imposed. The testimony taken at the hearing shall be under oath and recorded stenographically, or by machine, but the parties shall not be bound by the strict rules of evidence; certified copies of any transcript and of any other record made of or at the hearing shall be furnished to the licensee upon the licensee’s request and at the licensee’s expense.

Any order of revocation, suspension, fine, or reprimand imposed by the commission or board upon the licensee shall be in addition to any penalty that might be imposed upon the licensee upon the licensee’s conviction at law for any violation of this chapter. No licensee shall be subject to both the penalty assessed and collected by the commission or board and to revocation or suspension of license. The amount of penalty assessed and collected by the commission or board from any licensee for any particular offense shall not exceed the sum of \$2,000.

Whenever the service of any order or notice shall be required by this section [such], the service shall be made in the following manner: in the case of any violation based upon the personal observation of any investigator, a written notice of the violation shall be given to the licensee or the licensee’s registered manager in active charge of the premises, or by serving a certified copy of the notice or order upon the holder of the license wherever the holder may be found in the circuit wherein the holder is licensed, or, if the holder cannot be found after diligent search, by leaving a certified copy thereof at the holder’s dwelling house or usual place of abode with some person of suitable age and discretion residing therein; and if the holder of the license cannot be found after diligent search, and service cannot be made, then service may be made by posting a certified copy of the notice or order in a conspicuous place on the licensed premises and depositing another certified copy thereof in the certified mail of the United States post office, postage prepaid, addressed to the holder of the license at the holder’s last known residence address; provided that in the case of a partnership [or licensed], corporation, or unincorporated association, service may be made upon any partner or officer thereof.”

SECTION 13. Section 281-92, Hawaii Revised Statutes, is amended to read as follows:

**“§281-92 Appeals.** Any licensee aggrieved by any order assessing, or providing for the collection of, a penalty or by any order suspending or revoking any license may appeal therefrom in the manner provided in chapter 91 to the circuit court of the circuit in which the liquor commission or liquor control adjudication board making the order has jurisdiction and the judgment of the court shall be subject to review by the supreme court subject to chapter 602.”

SECTION 14. Section 281-93, Hawaii Revised Statutes, is amended to read as follows:

**“§281-93 Reports to prosecuting officers.** When the revocation or suspension of any license is by reason of any violation of law the liquor commission or the administrator shall report the facts to the prosecuting officer for prosecution.”

SECTION 15. Section 281-94, Hawaii Revised Statutes, is amended to read as follows:

**“§281-94 Forfeiture of fee paid.** If any license is revoked and canceled by the liquor commission or liquor control adjudication board, the fee paid for the license shall be forfeited to the county as respects the unexpired portion of the fee paid for the license.”

SECTION 16. Section 281-101.4, Hawaii Revised Statutes, is amended to read as follows:

**“[[§281-101.4]] Hearing, illegal manufacture, importation, or sale of liquor.** The liquor commission or liquor control adjudication board may assess and collect a penalty, or reprimand a person for not having a valid license to manufacture or sell any liquor in violation of this chapter or of any rule or regulation applicable thereto.

In every case where the administrator elects to conduct proceedings under this section where it is proposed to assess and collect a penalty from a person for not having a valid license to manufacture or sell any liquor in violation of this chapter or of any rule or regulation applicable thereto, [such] that person shall be entitled to notice and hearing in conformity with chapter 91.

At the hearing, before final action is taken by the commission[,] or board, the person shall be entitled to be heard in person or through counsel and shall be given a full and fair opportunity to present facts showing that the alleged cause or causes for the proposed action do not exist, or any reason why no penalty should be imposed. The testimony taken at the hearing shall be under oath and recorded stenographically, or by machine, but the parties shall not be bound by the strict rules of evidence; certified copies of any transcript and of any other record made of or at the hearing shall be furnished to [such] a person upon that person’s request and at that person’s expense.

Any order, reprimand, or penalty imposed by the commission or board upon a person for not having a valid license to manufacture or sell any liquor in violation of this chapter or of any rule or regulation applicable thereto shall be in addition to any penalty that might be imposed upon that person’s conviction in a court of law for any violation of this chapter. The amount of penalty assessed and collected by the commission or board from any person under this section for not having a valid

license to manufacture or sell any liquor shall not exceed the sum of \$2,000 for each charge.

Whenever the service of any order or notice shall be required by this section [such], the service shall be made in the following manner: in the case of any violation based upon the personal observation of any investigator, a written notice of the violation shall be given to the person charged with a violation within a reasonable period of time after the alleged violation occurred, the person charged shall be requested to acknowledge receipt of the alleged violation, or, if the person cannot be found after diligent search, by leaving a certified copy thereof at the person's dwelling house or usual place of abode with some person of suitable age and discretion residing therein; and if the person cannot be found after diligent search, and service cannot be made, then service may be made by depositing another certified copy thereof in the certified mail of the United States post office, postage prepaid, addressed to the person at the person's last known residence address; provided, that in the case of a partnership, corporation, or unincorporated association, service may be made upon any partner or officer thereof."

SECTION 17. Section 281-102.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The commission or board shall revoke for a period of not less than six months the license of any manufacturer, rectifier, wholesaler, retailer, or other licensee who violates, directly or indirectly, the provisions of this section. The penalty prescribed in this section is cumulative and in addition to any other penalties prescribed in this chapter."

SECTION 18. Section 281-106, Hawaii Revised Statutes, is amended to read as follows:

"**§281-106 Prosecutions not to exclude other remedies affecting license or goods.** The provisions in this chapter for the imposition upon any licensee of the penalties by fine or imprisonment for any violation of this chapter or of any rule or regulation made hereunder having the force of law shall be in addition to and independent of any other right of the liquor commission or the liquor control adjudication board under this chapter to effect a suspension or revocation of the license of the licensee and shall also be in addition to and independent of any proceeding to effect the forfeiture of any liquor or other property belonging to the licensee as contemplated by this chapter."

SECTION 19. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 20. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

A Bill for an Act Relating to Corrections.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§353- Nonemergency medical, dental, mental health services or treatment; intentional injury; payment by inmates.** (a) The department of public safety may develop policies and procedures governing the assessment of fees upon detainees and committed persons who receive certain medical, dental, or mental health services or treatment. In adopting these policies and procedures, the department shall safeguard the health and welfare of detainees and committed persons.

(b) The policies and procedures shall enable the department to assess fees upon detainees and committed persons who:

- (1) Request certain nonemergency medical, dental, or mental health services or treatment; or
- (2) Intentionally inflict injury to themselves.

(c) The policies and procedures shall include an appeals process to allow a detainee or committed person to appeal the assessment.

(d) The department of public safety may adopt policies and procedures to establish a fee schedule for medical, dental, and mental health services or treatment under the following conditions:

- (1) Fees shall be assessed from the detained or committed person’s individual trust account pursuant to section 353-20; and
- (2) Fees shall not be assessed if the individual trust account balance is less than \$10; provided that the department may implement a procedure to recover fees in the future.’’

SECTION 2. One year after the start of the implementation of the assessment of fees for medical, dental, and mental health services or treatment, the department of public safety shall submit a report to the legislature that summarizes the total of moneys deducted from inmate accounts. The report shall include an estimate of savings to the department through the related reduction in nonemergency medical, dental, or mental health services or treatment, and intentional injuries.

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.



## ACT 251

S.B. NO. 2256

A Bill for an Act Relating to Barbers Point Harbor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 206G-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The legislature hereby designates these lands to be received by the State as the “Kalaeloa community development district” and the harbor known as Barbers Point harbor as Kalaeloa Barbers Point harbor, in recognition of the traditional Hawaiian name for the area, which means “long point”.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect on January 1, 1999.

(Approved July 20, 1998.)

## ACT 252

S.B. NO. 2326

A Bill for an Act Relating to the Hawaii Employer’s Mutual Insurance Company.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to amend the law establishing the Hawaii employers’ mutual insurance company (HEMIC), Act 261, Session Laws of Hawaii (SLH) 1996, to:

- (1) Create an oversight council to monitor HEMIC’s performance of its statutory obligations to ensure that HEMIC fulfills its objective of providing reliable, affordable workers’ compensation insurance to Hawaii employers; and
- (2) Make clarifications regarding the State providing capital to HEMIC.

HEMIC was created by the legislature as a preemptive measure to avoid a crisis in the availability of workers’ compensation insurance without exposing the State to unlimited liability for workers’ compensation losses. Because the legislature was concerned that direct funding of HEMIC would leave the State open to derivative liability for HEMIC’s obligations, the legislature provided capital for HEMIC’s operations indirectly, through certain exemptions. Thus, the legislature exempted HEMIC from the surplus requirements otherwise applicable to mutual insurance companies in the State of Hawaii. That exemption, in conjunction with HEMIC’s exemption from assessments by the Hawaii hurricane relief fund (HHRF), will provide capital to fund HEMIC’s operations from HEMIC’s inception through 2007. The exemption from the surplus requirements allows HEMIC to write policies and generate premium income. The portion of the premium income representing HHRF assessments is instead retained in HEMIC’s surplus.

Act 261, SLH 1996, which explicitly exempted HEMIC from surplus requirements, failed to explicitly state that HEMIC is not subject to HHRF assessments for the period through December 31, 2007. This Act both clarifies and amends HEMIC’s enabling legislation to make it clear that while HEMIC does have an exemption from HHRF assessments, HEMIC is to be exempt only up to the first \$25,000,000 of written premiums in each calendar year.

This Act also amends HEMIC's participation in the Hawaii property and liability insurance guaranty association. HEMIC is not to participate in the Hawaii property and liability insurance guaranty association prior to January 1, 2008.

SECTION 2. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to article 14A to be appropriately designated and to read as follows:

**“§431:14A- Oversight council.** (a) There is established the Hawaii employers' mutual insurance company oversight council which shall meet at least once annually. For administrative purposes only, the council shall be assigned to the department of commerce and consumer affairs. The council shall oversee the activities of the company to ensure that the company fulfills its purpose as set forth in this article.

(b) The council shall consist of five members who shall include:

- (1) A member of the senate appointed by the president of the senate;
- (2) A member of the house of representatives appointed by the speaker of the house of representatives;
- (3) The director of the department of labor and industrial relations;
- (4) The director of the department of commerce and consumer affairs; and
- (5) An at-large member who is an owner, officer, or employee of the company policyholder appointed by the governor;

provided that if any designee under paragraphs (1) to (4) does not meet the test in subsection (c), the president of the senate, speaker of the house, or governor, as applicable, shall designate an appropriate representative. Section 26-34 shall not apply to appointments under this section.

(c) No person shall serve on the council who within the second degree of consanguinity or affinity has a direct and substantial interest in an insurer that competes with the company, including but not limited to:

- (1) A stockholder of a competing company (excluding a holder of less than one per cent of the outstanding shares in a publicly traded company);
- (2) An employee of a competing company;
- (3) An attorney who represents a competing company; or
- (4) A party who contracts with a competing company (excluding an independent contractor or business owner who does less than twenty-five per cent of its total annual volume of business per year with competing insurers).

(d) Members of the council shall serve without compensation, but shall be reimbursed for reasonable expenses necessary for the performance of their duties.

(e) The administrator shall serve as liaison officer to the council. Not later than sixty days after passage of this Act and every June 15 thereafter, the board shall provide to the council any and all data and information the council may require, including but not limited to:

- (1) The company's statutorily required annual financial statement;
- (2) Copies of any reports issued by the insurance division in connection with the triennial examination of the company; and
- (3) Actuarial certification of loss reserves.

(f) After receipt of the data and information required pursuant to subsection (e), the council shall review the activities of the company and determine whether the company is fulfilling its purpose as set forth in this article. The council shall promptly, but in no event later than October 15, 1998, and every October 15 thereafter, submit a report to the governor with a copy to the board of directors, stating whether the company is fulfilling its purpose as set forth in this article. If the council determines that there are any deficiencies in the company's fulfillment of its purposes as set forth in this article, it shall include in its report a detailed description

of any deficiencies. Within a timeframe established by the council, but in no event later than six months after delivery of the council's report in accordance with this section, the company shall respond in writing to any deficiencies identified in the council's report. The Hawaii employers' mutual insurance company shall provide staff support to the council.

(g) If the governor determines that corrective action is appropriate after reviewing the council's report and the company's response, the governor shall inform the legislature, and the legislature shall consider what action is needed."

SECTION 3. Section 431:14A-102, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"'Council' means the Hawaii employers' mutual insurance company oversight council."

SECTION 4. Section 431:14A-103, Hawaii Revised Statutes, is amended by amending subsections (e) and (f) to read as follows:

"(e) Notwithstanding any other law to the contrary, the company shall be excluded from the surplus requirements of domestic mutual insurers from January 1, 1997, through December 31, 2007. The company is also excluded during this time period from any assessments by the Hawaii hurricane relief fund otherwise required by section 431P-5(b)(8); provided that the exclusion shall apply to the first \$25,000,000 of written premiums in each calendar year; and provided further that annual written premiums in excess of \$25,000,000 shall be assessed in accordance with section 431P-5(b)(8).

(f) The company is exempt from participation, and shall not join, contribute financially to, nor be entitled to the protection of, any plan, association, guaranty, insolvency fund,<sup>1</sup> and training fund authorized or required by this chapter. Notwithstanding the foregoing exemptions, beginning January 1, 2008, the company shall participate in the property and liability insurance guaranty association, pursuant to sections 431:16-101 to 431:16-117; provided that the company shall meet the surplus requirements applicable to all other domestic insurers under chapter 431 effective January 1, 2008."

SECTION 5. Section 431:14A-107, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The board shall discharge its duties:

- (1) In accordance with the company's purpose;
- (2) With the care, skill, prudence, and diligence under the circumstances that a prudent director, acting in a like capacity and familiar with such matters would use in conducting a similar enterprise and purpose;
- (3) By diversifying the company's investments to minimize the risk of losses, unless it is prudent not to do so;
- (4) In accordance with governing legal documents;
- (5) By having an annual audit of the company by an independent certified public accountant;
- (6) By securing a fidelity bond for the administrator and in its discretion for other agents dealing with the company's assets at the company's expense;
- (7) By purchasing liability insurance for errors and omissions for the board, each director, and any other fiduciary employed or contracted by

the company to cover liability or losses caused by the act or omission of a fiduciary;

- (8) By maintaining proper books of accounts and records of the company’s administration;
- (9) By carrying out the reporting and disclosure requirements required by law; [and]
- (10) By appointing a qualified actuary to develop and recommend a responsible schedule of premium rates with consideration of the company’s investment income or refunds, or both, and to provide actuarial certification of the company’s loss reserves[.]; and
- (11) By cooperating with and assisting the council in its duties and responsibilities.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>2</sup>

SECTION 7. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**Notes**

- 1. Prior to amendment “or education” appeared here.
- 2. Edited pursuant to HRS §23G-16.5.

**ACT 253**

S.B. NO. 2350

A Bill for an Act Relating to Recycling.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 342G-84, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The department shall distribute the moneys contained in the special account to the counties in proportion to the amount of glass imported into each county based on the county’s de facto population. The distribution shall be in the form of direct contracts with the department as permitted under chapters 103 and 103D[.] or transfer of funds from the department.”

SECTION 2. Section 342G-85, Hawaii Revised Statutes, is amended to read as follows:

“[§342G-85] **Container inventory report and payment.** (a) Payment of the advance glass disposal fee shall be made quarterly based on inventory reports of the glass container importers[. For the first payment, all], except for those importers subject to subsection (c) or (d). All glass container importers[, on or before January 15, 1995,] shall submit to the department documentation in sufficient detail that identifies the number of glass containers manufactured or imported to the State and sold or distributed, by manufacturer or distributor, during the calendar [quarter ending December 31, 1994.] year.

(b) The amount due from glass container importers less glass containers exported for the calendar [quarter ending December 31, 1994,] year shall be the sum equal to the number of glass containers provided in subsection (a) multiplied by the advance disposal fee of .015 cents. Payment shall be made by check or money order

payable to the "Department of Health, State of Hawaii". All subsequent inventory reports and payments shall be made not later than the fifteenth day of the month following the end of the previous calendar quarter[.], except for those importers subject to subsection (d).

(c) A glass container importer who imports less than five thousand glass containers within a one year period shall be exempt from payment of the fee.

(d) A glass container importer who imports five thousand or more glass containers, but less than or equal to one hundred thousand glass containers, shall be permitted to provide a report and payment of the fee annually, rather than quarterly."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on January 1, 1999.

(Approved July 20, 1998.)

## ACT 254

S.B. NO. 2399

A Bill for an Act Relating to Elections.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to conduct a study of the feasibility of a pilot clean elections program for elections held in the years 2002 and 2004. The clean elections pilot program to be studied shall provide that candidates who agree to:

- (1) Forego private campaign contributions;
- (2) Adhere to strict spending limits; and
- (3) Shorten their campaign period,

can qualify to receive a set and competitive amount of campaign financing from a public fund to run their campaigns.

SECTION 2. The campaign spending commission, in cooperation with the League of Women Voters, Common Cause Hawaii, Hawaii Clean Elections, and other relevant stakeholders, shall conduct a comprehensive study of the campaign financing system in Hawaii and submit a report to the legislature, no later than twenty days before the convening of the regular session of 2000, including the following information about the pilot program proposed in this proposed model Act:

- (1) An estimate of how much money would be needed to fund the full amount of "clean election amounts" in this proposed model Act;
- (2) An estimate of how much money would be needed to implement a provision requiring clean elections funding to match independent expenditures and any excess expenditures of nonparticipating candidates;
- (3) Recommendations relating to the feasibility, implementation, administration, and enforcement of this proposed model Act;
- (4) Proposed rules to implement the provisions of this proposed model Act including the offices, races, or elections to which the pilot should apply; and
- (5) Any suggested changes to this proposed model Act, including commentary on whether the following provisions should be adjusted:

- (a) The number of clean elections qualifying contributions necessary to qualify as a clean elections candidate;
- (b) The maximum aggregate amount of additional funding a clean elections candidate shall receive to match independent expenditures and the excess expenditures of nonparticipating candidates; and
- (c) The amount of clean elections funding for eligible clean elections candidates.

The proposed model Act to be studied is as follows:

**“Clean elections; requirements for candidates.** (a) Primary election; party candidates. A party candidate qualifies as a clean elections candidate for the primary election campaign period if that person files a declaration with the commission that the person has complied and will comply with all of the requirements of this Act, as applicable, and before the close of the clean elections qualifying period, a party candidate collects clean elections qualifying contributions totalling at least one per cent of the number of voters from the preceding general election registered to vote in each respective district.

Each clean elections qualifying contribution shall be:

- (1) Acknowledged by a receipt to the contributor, with a copy to be kept by the candidate and a third copy to be submitted to the commission. The receipt shall indicate, by the contributor’s signature, that the contributor understands that the purpose of the contribution is to help the candidate qualify for clean elections campaign funding. The receipt shall include the contributor’s signature, printed name, home address, and telephone number, and the name of the candidate on whose behalf the contribution is made; and
- (2) Submitted, with a signed and completed receipt, to the commission according to a schedule and procedure to be determined by the commission. A contribution submitted as a clean elections qualifying contribution that does not include a signed and completed receipt will not be counted as a clean elections qualifying contribution.

A party candidate qualifies as a clean elections candidate for the general election campaign period if that person has met all of the applicable requirements and filed a declaration with the commission that the person has fulfilled and will fulfill all of the requirements of a clean elections candidate as stated in this Act; and, as a clean elections candidate during the primary election campaign period, that person had the highest number of votes of the candidates contesting the primary election from the person’s party and, therefore, won the party’s nomination.

(b) Primary election; independent candidates. An independent candidate qualifies as a clean elections candidate for the primary election campaign period if that person files a declaration with the commission that the person has complied and will comply with all of the requirements of this Act, as applicable. An independent candidate shall collect the same number of clean elections qualifying contributions as a party candidate shall collect for the same office as provided subsection (a).

Each clean elections qualifying contribution shall be:

- (1) Acknowledged by a receipt to the contributor, with a copy to be kept by the candidate and a third copy to be submitted to the commission. The receipt shall indicate, by the contributor’s signature, that the contributor understands that the purpose of the contribution is to help the candidate qualify for clean elections campaign funding. The receipt shall include the contributor’s signature, printed name, home address, and telephone number, and the name of the candidate on whose behalf the contribution is made; and

- (2) Submitted, with a signed and completed receipt, to the commission according to a schedule and procedure to be determined by the commission.

An independent candidate qualifies as a clean elections candidate for the general election campaign period, if prior to the primary election, that person has met all of the applicable requirements of this Act and filed a declaration with the commission that the person has fulfilled and will fulfill all of the requirements of a clean elections candidate as stated in this Act; and, during the primary election campaign period, the person has fulfilled all of the requirements of a clean elections candidate as stated in this Act.

(c) Continuing obligation of clean elections candidates. A clean elections candidate who accepts any benefits during the primary election campaign period shall comply with all the applicable requirements of this Act through the general election campaign period whether that person continues to accept benefits or not.

(d) Contributions and expenditures. During the primary, general, and special election campaign periods, a clean elections candidate who has voluntarily agreed to participate in, and has become eligible for, clean elections benefits:

- (1) Shall not accept private contributions from any source other than the candidate's political party as specified in subsection (s);
- (2) Shall not accept any loans from any source; and
- (3) Shall pay for all of that person's campaign expenditures, except petty cash expenditures, by means of the commission's clean elections debit card as authorized under subsection (r).

Eligible candidates shall furnish complete campaign records, including all records of seed money contributions and clean elections qualifying contributions, to the commission at regular filing times, or on request by the commission. Candidates shall cooperate with any audit or examination by the commission.

(e) Use of personal funds. Personal funds contributed as seed money by a candidate seeking to become eligible as a clean elections candidate or by adult members of that person's immediate family shall not exceed the maximum of \$100 per contributor. Personal funds may not be used to meet the clean elections qualifying contribution requirement except for one \$5 contribution from each resident voter, including the candidate and any member of the candidate's immediate family.

For purposes of this subsection, "immediate family" means the same as defined in section 11-191.

(f) Seed money. The only private contributions a candidate seeking to become eligible for clean elections funding may accept, other than clean elections qualifying contributions, are seed money contributions contributed by individual adults prior to the end of the clean elections qualifying period. A seed money contribution shall not exceed \$100, and the aggregate amount of seed money contributions accepted by a candidate seeking to become eligible for clean elections funding shall not exceed amounts as prescribed by rules adopted by the campaign spending commission.

Receipts for seed money contributions under \$25 need only include the contributor's signature, printed name, and address. Receipts for seed money contributions of \$25 or more must include the contributor's signature, printed name, street address and zip code, telephone number, occupation, and name of employer. Contributions shall not be accepted if the required disclosure information is not received. No person shall make a contribution in the name of another person. Any person who receives a seed money contribution that is not from the person listed on the receipt shall be liable to pay the commission the entire amount of that contribution, in addition to any penalties.

Seed money shall be spent only during the clean elections qualifying period. Seed money may not be spent during the primary, general, or special election

campaign periods. Seed money shall not be spent to pay for the solicitation or collection of clean elections qualifying contributions, nor for broadcast advertising or mass mailings. Within forty-eight hours after the close of the clean elections qualifying period, candidates seeking to become eligible for clean elections funding shall fully disclose all seed money contributions and expenditures to the commission; and turn over to the commission for deposit in the clean elections fund any seed money the person has raised during the designated seed money period that exceeds the aggregate seed money limit.

(g) Participation in debates. Clean elections candidates in contested races shall participate in one one-hour debate during a contested primary election, two one-hour debates during a contested general election, and one one-hour debate during a special election. These debates shall be publicly presented live on the cable access channel dedicated to public programming and publicly broadcast on broadcast stations that voluntarily agree to participate. Nonparticipating candidates for the same office whose names will appear on the ballot shall be invited to join the debates.

(h) Media use. Clean elections candidates utilizing media time shall be subject to the requirements of subsection (p).

(i) Certification. No more than five days after a candidate applies for clean elections benefits, the commission shall certify whether the candidate is eligible. Eligibility may be revoked if the candidate violates the applicable requirements of this Act, in which case all clean elections funds shall be repaid. The candidate's request for certification shall be signed by the candidate and the candidate's campaign treasurer under penalty of perjury. The commission's determination shall be subject to examination and audit by an outside agency and to a prompt judicial review.

(j) Benefits provided to candidates eligible to receive clean elections money. Candidates who qualify for clean elections funding for primary, general, and special elections shall receive clean elections funding from the commission for each election, the amount of which is specified in subsection (l). This funding may be used to finance any and all campaign expenses during the particular campaign period for which it was allocated.

- (1) Additional clean elections funding to match any excess expenditure amount spent by a nonparticipating candidate, as specified in subsection (n); and
- (2) Additional clean elections funding to match any independent expenditure made in opposition to their candidacies or on behalf of their opponents' candidacies, as specified in subsection (o).

The maximum aggregate amount of additional funding a clean elections candidate shall receive to match independent expenditures and the excess expenditures of nonparticipating candidates shall be one hundred per cent of the full amount of clean elections funding allocated to a clean elections candidate for a particular primary, general, or special election campaign period.

(k) Schedule of clean elections payments. An eligible party candidate shall receive that person's clean elections funding for the primary election campaign period on the date on which the commission certifies the candidate as a clean elections candidate. This certification shall take place no later than five days after the candidate has submitted the required number of clean elections qualifying contributions and a declaration stating that the person has complied with all other requirements for eligibility as a clean elections candidate, but no earlier than the beginning of the primary election campaign period.

An eligible party candidate shall receive that person's clean elections funding for the general or special election campaign period within forty-eight hours after certification of the primary or general election results. An eligible independent



candidate shall receive that person's clean elections funding for the primary election campaign period on the date on which the commission certifies the candidate as a clean elections candidate. This certification shall take place no later than five days after the candidate has submitted the required number of clean elections qualifying contributions and a declaration stating that the person has complied with all other requirements for eligibility as a clean elections candidate, but no earlier than the beginning of the primary election campaign period.

An eligible independent candidate shall receive that person's clean elections funding for a general or special election campaign period within forty-eight hours after certification of the primary or general election results.

- (1) Determination of clean elections amounts. For eligible party candidates:
- (1) The amount of clean elections funding for an eligible party candidate in a contested primary election is the expenditure limits identified in section 11-209;
  - (2) The clean elections amount for an eligible party candidate in an uncontested primary election is twenty-five per cent of the amount provided in a contested primary election;
  - (3) In a contested general election, if an eligible party candidate or that candidate's party received at least twenty per cent of the total number of votes cast for all candidates seeking that office in the primary election or in the previous general election, the candidate shall receive the full amount of clean elections funding for the general election, which is the expenditure limits identified in section 11-209;
  - (4) In a contested general election, if an eligible party candidate or that candidate's party received at least five per cent but less than twenty per cent of the total number of votes cast for all candidates seeking that office in the primary election or in the previous general election, the candidate shall receive a portion of the full amount of clean elections based on the ratio that their vote percentage is to twenty per cent.
  - (5) The clean elections amount for an eligible party candidate in an uncontested general election is five per cent of the amount provided in a contested general election for the same office; and
  - (6) The clean elections amount for an eligible party candidate in a special election is twenty-five per cent of the amount provided in the preceding primary or general election that resulted in the need for a special election.

The clean elections amount for an eligible independent candidate: in a primary election is twenty-five per cent of the amount received by a party candidate in a contested primary election; and the clean elections amount for an eligible independent candidate in the general election is the same as the full amount received by a party candidate in the general election.

(m) Expenditures made with clean elections funds. (a) The clean elections funding received by a clean elections candidate shall be used only for the purpose of defraying that candidate's campaign-related expenses during the particular election campaign period for which the clean elections funding was allotted.

(b) Payments shall not be used:

- (1) In violation of the law; or
- (2) To repay any personal, family, or business loans, expenditures, or debts.

(n) Disclosure of excess spending by nonparticipating candidates. If a nonparticipating candidate's total expenditures exceed the amount of clean elections funding allocated to that person's clean elections opponents, that person shall declare every excess expenditure amount over \$1,000 to the commission within forty-eight hours.

During the last two weeks before the end of the relevant campaign period, a nonparticipating candidate must declare to the commission each excess expenditure amount over \$500 within twenty-four hours of the time the expenditure is made or obligated to be made.

The commission may make its own determination as to whether excess expenditures have been made by nonparticipating candidates.

Upon receiving an excess expenditure declaration, the commission shall immediately release additional clean elections funding to the opposing clean elections candidates equal to the excess expenditure amount the nonparticipating candidate has spent or intends to spend.

(o) Disclosure of, and additional clean elections to match independent expenditures. Any person who makes or is obligated to make an independent expenditure during a primary, general, or special election campaign period in excess of \$1,000 per expenditure shall report each expenditure within forty-eight hours to the commission. Reporting shall be on forms provided by the commission, and shall require the names, address, occupation, employer, and amount paid for those persons who contributed more than \$250 each to the independent expenditure.

The report to the commission shall include a statement, made under penalty of perjury, by the person or persons making the independent expenditure identifying the candidate whom the independent expenditure is intended to help elect or defeat, and affirming that the expenditure is totally independent and involves no cooperation or coordination with a candidate or a political party. A person may file a complaint with the commission if the person believes that such a statement is false. The commission shall make a prompt determination about the merits of the complaint.

Any person who makes or is obligated to make an independent expenditure during the last two weeks before the end of the relevant campaign period shall declare to the commission each excess expenditure amount over \$500 within twenty-four hours of the time the expenditure is made or obligated to be made.

Upon receiving a report that an independent expenditure has been made or is obligated to be made, the commission shall immediately release additional clean elections funding, equal in amount to the cost of the independent expenditure, to all clean money candidates whom the independent expenditure is intended to oppose or defeat; provided that the maximum aggregate amount of additional funding a clean elections candidate shall receive to match independent expenditures and the excess expenditures of nonparticipating candidates is no more than one hundred per cent of the full amount of clean elections funding allocated to a clean elections candidate in that election. Matching money is only granted to a clean elections candidate if that person is opposed by a nonparticipating candidate whose campaign expenditures, combined with the amount of the independent expenditures, exceeds the amount of clean elections funding received by the clean elections candidate.

(p) Paid broadcast media advertising. Clean elections candidates, as a condition of receiving benefits under this Act, may purchase television and radio time only in blocks of one minute or more, and shall appear in person on television and use their own voice on radio for at least fifty per cent of the broadcast time. If a clean elections candidate has a physician-certified voice-related disability, this requirement may be waived and a brief statement added by the candidate or the candidate's representative saying that the candidate has approved the advertisement.

(q) Deposit of moneys into the Hawaii election campaign fund. The following sources of revenue shall be deposited in the fund in addition to section 11-217:

- (1) Any general fund or other revenues appropriated by the legislature;
- (2) The clean elections qualifying contributions required of candidates seeking to become certified as clean elections candidates according to

subsection (a), and candidates' excess clean elections qualifying contributions;

- (3) The excess seed money contributions of candidates seeking to become certified as clean elections candidates, as provided in subsection (f);
- (4) Unspent funds distributed to any clean elections candidate who does not remain a candidate until the primary, general, or special election for which they were distributed, or such funds that remain unspent by a clean elections candidate following the date of the primary, general, or special election for which they were distributed;
- (5) Fines levied by the commission against candidates for violation of election laws;
- (6) Voluntary donations made directly to the clean elections fund;
- (7) Any interest generated by the fund;
- (8) All moneys collected from persons who have designated a portion of their income tax liability to the fund as provided in section 235-102.5;
- (9) Any funds that escheat to the fund;
- (10) Any remaining funds in the Hawaii election campaign fund prior to the enactment of this section; and
- (11) Any other sources of revenue determined necessary by the legislature.

(r) Administration and dispersal of money from the fund. Upon determination that a candidate has met all the requirements for becoming a clean elections candidate, the commission shall issue to the candidate a card, known as the "clean elections debit card", and a line of debit entitling the candidate and authorized members of the candidate's staff to draw clean elections funds from a commission account to pay for all campaign costs and expenses up to the amount of clean election funding the candidate has received. In the case of utility bills and wages or fees for services, these expenditures shall be reported at the time of obligation and paid off within forty-five days after the election is over or the candidate ceases to be a clean elections candidate.

Neither a clean elections candidate nor any other person on behalf of a clean elections candidate shall pay campaign costs by cash, check, money order, loan, or by any other financial means besides the clean elections debit card, except as otherwise provided by law. Cash amounts of \$100 or less per week may be drawn on the clean elections debit card and used to pay expenses of no more than \$25 each. Records of all such expenditures shall be maintained and reported to the commission.

(s) Political party contributions and expenditures. Clean elections candidates may not accept any monetary contributions from political parties. Clean elections candidates may accept in-kind contributions from political parties; provided that the aggregate amount of such contributions from all political party committees combined does not exceed the equivalent of ten per cent of the clean elections financing amount for that office. In-kind contributions made during a general election campaign period on behalf of a group of the party's candidates shall not be considered an improper party contribution or count against the ten per cent limit for the state party committee making such in-kind contributions, if that group includes at least fifty per cent of the party's candidates whose names will appear on the general election ballot.

Contributions made to, and expenditures made by, political parties during primary, general, and special campaign periods shall be reported electronically to the commission on the same basis as contributions and expenditures made to or by candidates. Nothing in this subsection shall prevent political party funds from being used for general operating expenses of the party; conventions; nominating and endorsing candidates; identifying, researching, and developing the party's positions on issues; party platform activities; noncandidate-specific voter registration;

noncandidate-specific “get-out-the-vote” drives; travel expenses for noncandidate party leaders and staff; and other noncandidate-specific party building activities.

(t) Repayments of excess expenditures. If a clean elections candidate spends or obligates to spend more than one hundred five per cent of the clean elections funding the candidate is allocated, and if this is determined not to be an amount that had or could have been expected to have a significant impact on the outcome of the election, then the candidate shall repay to the clean elections fund an amount equal to the excess. If a clean elections candidate spends or obligates to spend more than the clean elections funding the candidate is given, and if this is determined to be an amount that had or could have been expected to have a significant impact on the outcome of the election, then the candidate shall repay to the clean elections fund an amount equal to ten times the value of the excess.

(u) Definitions. For the purposes of this section:

“Clean elections candidate” means a candidate who qualifies for clean elections campaign funding. Such candidates may receive clean elections funding during primary, general, and special election campaign periods.

“Clean elections qualifying contribution” means a contribution of \$5 that is received during the designated clean elections qualifying period by a candidate seeking to become eligible for clean elections campaign funding and that is acknowledged by a written receipt identifying the contributor. Contributors shall be registered voters who reside within the candidate’s district or State. Qualifying contributions shall be made in cash, or by check or money order, and shall be accompanied by a signed receipt fully identifying the contributor and indicating that the contributor fully understands the purpose of the contribution, which shall be turned over to the campaign spending commission for deposit in the clean elections fund. Qualifying contributions must be gathered by candidates themselves or by volunteers who receive no compensation.

“Clean elections qualifying period” means the period during which candidates may collect qualifying contributions in order to qualify for clean elections funding, beginning ninety days before the beginning of the primary election campaign period and ending thirty days before the beginning of the primary election day.

“Coordination” means a payment made for a communication or anything of value that is for the purpose of influencing the outcome of a state election and that is made:

- (1) By a person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with a candidate, the candidate’s authorized committee, or an agent acting on behalf of a candidate or authorized committee;
- (2) By a person for the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by a candidate, a candidate’s authorized committee, or an agent of a candidate or authorized committee;
- (3) Based on information about the candidate’s plans, projects, or needs provided to the person making the payment by the candidate or the candidate’s agent who provides the information with a view toward having the payment made;
- (4) By a person if, in the same election cycle in which the payment is made, the person making the payment is serving or has served as a member, employee, fundraiser, or agent of the candidate’s authorized committee in an executive or policymaking position;
- (5) By a person if the person making the payment has served in any formal policy or advisory position with the candidate’s campaign or has participated in strategic or policymaking discussions with the candidate’s campaign relating to the candidate’s pursuit of nomination for election,

or election, to a state office, in the same election cycle as the election cycle in which the payment is made; and

- (6) By a person if the person making the payment retains the professional services of an individual or person who has provided or is providing campaign-related services in the same election cycle to a candidate in connection with the candidate's pursuit of nomination for election, or election, to state office, including services relating to the candidate's decision to seek state office, and the payment is for services of which the purpose is to influence that candidate's campaign.

"Excess expenditure amount" means the amount of money spent or obligated to be spent by a nonparticipating candidate in excess of the clean elections amount available to a clean elections candidate running for the same office.

"Express advocacy":

- (1) Means a communication that is made through a broadcast medium, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising that:
- (A) Advocates the election or defeat of a clearly identified candidate, including any communication that contains such phrases as "vote for", "re-elect", "support", "cast your ballot for", "(name of candidate) for (name of office)", "(name of candidate) in (year)", "vote against", "defeat", "reject", and the like; or that contains campaign slogans or individual words that in context can have no reasonable meaning other than to recommend the election or defeat of one or more clearly identified candidates; or
- (B) Involves aggregate disbursements of \$1,000 or more, refers to one or more clearly identifiable candidates, and is made not more than thirty days before the date of a primary election or sixty days before the date of a general election;

but

- (2) Does not include:
- (A) A communication that is limited solely to providing information about voting records of elected officials on legislative matters that a reasonable person would not understand as advocating the election or defeat of a particular candidate or candidates;
- (B) Any news story, commentary, or editorial by a broadcasting station, newspaper, magazine, or other publication; provided that such entity is not owned by or affiliated with any candidate or candidate committee; or
- (C) A regularly published newsletter whose circulation is limited to an organization's members, employees, shareholders, other affiliated individuals, and those who request or purchase the internal publication.

"Fund" means the Hawaii election campaign fund.

"General election campaign period" means the period beginning the day after the primary election and ending on the day of the general election.

"Independent candidate" means a candidate who is not a party candidate.

"Mass mailings" means mailings of two hundred or more identical or nearly identical pieces of mail sent by candidates or elected officials to the voters, residents, or postal box-holders within the jurisdiction candidates are seeking to represent, consisting of substantially identical letters, newsletters, pamphlets, brochures, or other written material. "Mass mailings" does not include:

- (1) Mailings made in direct response to communications from persons or groups to whom the matter is mailed;

- (2) Mailings to federal, state, or local government officials;
- (3) Mailings whose sole purpose is to communicate information about a public meeting; and
- (4) News releases to the communications media.

“Nonparticipating candidate” means a candidate who is on the ballot but has chosen not to apply for clean elections campaign funding, or a candidate who is on the ballot and has applied but has not satisfied the requirements for receiving clean elections funding.

“Party candidate” means a candidate who represents a political party that has been granted ballot status and holds a primary election to choose its nominee for the general election.

“Primary election campaign period” means the period beginning ninety days before the primary election and ending on the day of the primary election.

“Seed money contribution” means a contribution of no more than \$100 made by an individual adult during the seed money period.

“Seed money period” means the period beginning the day following the previous general election for that office and ending on the last day of the clean elections qualifying period, in which candidates who wish to become eligible for clean elections funding for the next election may raise and spend a limited amount of private seed money, in contributions of up to \$100 per individual, for the purpose of “testing the waters” and fulfilling the clean elections eligibility requirements.

“Special election campaign period” means the period beginning the day after the primary or general election that resulted in the need for a special election, and ending on the day of the special election.”

SECTION 3. This Act shall take effect upon approval.

(Approved July 20, 1998.)

**ACT 255**

S.B. NO. 2414

A Bill for an Act Relating to Pawnbrokers.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 445-134.13, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No pawnbroker shall:

- (1) Charge or receive any pawn finance charge exceeding twenty per cent a month;
- (2) Contract for or receive any amounts other than the pawn finance charge in connection with a pawn transaction;
- (3) Accept a pledge or purchase of property from a person under the age of eighteen years;
- (4) Accept any waiver, in writing or otherwise, of any right or protection accorded a customer under this part;
- (5) Fail to exercise reasonable care to protect pledged goods from loss or damage;
- (6) Fail to return pledged goods to a customer within three business days of payment of the full amount due the pawnbroker on the pawn transaction;

- (7) Make any charge for insurance, storage, or handling in connection with a pawn transaction;
- (8) Enter into a pawn transaction which has a maturity date more than one month after the date the pawn transaction agreement is signed;
- (9) Accept pledged goods or buy merchandise from a person unable to supply verification of identity by photo identification card, a state-issued identification card, driver's license, or federal government-issued identification card; provided that in addition to such verification, the pawnbroker shall take the person's thumbprint, and retain the thumbprint on file;
- (10) Make any agreement requiring the personal liability of a customer in connection with a pawn transaction or creating any obligation on the part of the customer to redeem pledged goods or make any payment on a pawn transaction; [or]
- (11) Allow a customer's pawn account to exceed \$10,000. For purposes of this paragraph, "pawn account" means the total accumulation of unpaid pawn finance charges for any single customer[.]; or
- (12) Accept vehicles, vessels, or negotiable instruments as pledged goods, or certificates of title or registration of vehicles or vessels as evidence of possession of pledged goods."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored..

SECTION 3. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

## ACT 256

S.B. NO. 2454

A Bill for an Act Relating to Vocational Rehabilitation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 386-25, Hawaii Revised Statutes, is amended to read as follows:

**“§386-25 Vocational rehabilitation.** (a) The purposes of vocational rehabilitation are to restore an injured worker's earning capacity as nearly as possible to that level which the worker was earning at the time of injury and to return the injured worker to suitable work in the active labor force as quickly as possible in a cost-effective manner.

(b) The director [shall] may refer employees who may have or have suffered permanent disability as a result of work injuries and who in the director's opinion can be [physically or] vocationally rehabilitated to the department of human services or to private providers of rehabilitation services for [such physical and] vocational rehabilitation services [as] that are feasible. A referral shall be made upon recommendation of the rehabilitation unit established under section 386-71.5 and after the employee has been deemed physically able to participate in rehabilitation by the employee's attending physician. The unit shall include appropriate professional staff and shall have the following duties and responsibilities:

- (1) To [foster,] review[,] and approve rehabilitation plans developed by certified providers of rehabilitation services, whether they be private or public;
- (2) To adopt rules consistent with this section which shall expedite and facilitate the identification, notification, and referral of industrially injured employees to rehabilitation services, and establish minimum standards for providers providing rehabilitation services under this section;
- (3) To certify private and public providers of rehabilitation services [in accordance with] meeting the minimum standards established[;] under paragraph (2); and
- (4) To [coordinate and] enforce the implementation of rehabilitation plans.

(c) Enrollment in a rehabilitation plan or program shall not be mandatory and the approval of a proposed rehabilitation plan or program by the injured employee shall be required. [After securing such approval the director shall] The injured employee may select a certified provider of rehabilitation services [for the injured employee after consultation with the employee and the employer]. Both the certified provider and the injured employee, within a reasonable time after initiating rehabilitation services, shall give proper notice of selection to the employer.

(d) An injured employee's enrollment in a rehabilitation plan or program shall not affect the employee's entitlement to temporary total disability compensation if the employee earns no wages during the period of enrollment. If the employee receives wages for work performed under the plan or program, the employee shall be entitled to temporary total disability compensation in an amount equal to the difference between the employee's average weekly wages at the time of injury and the wages received under the plan or program, subject to the limitations on weekly benefit rates prescribed in section 386-31(a). The employee shall not be entitled to such compensation for any week during this period where the wages equal or exceed the average weekly wages at the time of injury.

(e) The director shall adopt rules for additional living expenses necessitated by the rehabilitation program, together with all reasonable and necessary vocational training.

(f) If the rehabilitation unit determines that [physical and] vocational rehabilitation [are] is not possible or feasible, it shall certify such determination to the director.

(g) The eligibility of any injured employee to receive other benefits under this chapter shall in no way be affected by the employee's entrance upon a course of [physical or] vocational rehabilitation as herein provided.

(h) Vocational rehabilitation services for the purpose of developing a vocational rehabilitation plan [shall] may be approved by the director and the director [shall] may periodically review progress in each case."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 20, 1998.)



## ACT 257

S.B. NO. 2460

A Bill for an Act Relating to Acquisition of Hospitals.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 323D, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . HOSPITAL ACQUISITION**

**§323D-A Definitions.** For the purpose of this part, unless the context requires otherwise:

“Acquisition” means any acquisition by a person or persons of an ownership or controlling interest in a hospital, whether by purchase, merger, lease, gift, or otherwise, that results in a change of ownership or control of twenty per cent or greater or which results in the acquiring person or persons holding a fifty per cent or greater interest in the ownership or control of that hospital, but does not include the acquisition of an ownership or controlling interest in a private nonprofit hospital by a transferee that:

- (1) Is a nonprofit corporation having a substantially similar charitable health care purpose as the transferor or is a governmental entity;
- (2) Is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or as a governmental entity; and
- (3) Maintains representation from the affected community on the local board.

“Agency” means the state health planning and development agency.

“Hospital” means an institution with an organized medical staff, regulated under section 321-11(10) which admits patients for inpatient care, diagnosis, observation, and treatment, but does not include a public health facility under chapter 323F.

“Person” has the meaning found in section 323D-2.

**§323D-B Acquisition of hospital.** (a) No person shall engage in the acquisition of a hospital without first:

- (1) Applying for and receiving the approval of the agency; and
- (2) Notifying the attorney general and, if applicable, receiving approval from the attorney general pursuant to this part;

unless the acquiring person is a nonprofit corporation exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or is a governmental entity.

(b) Any person not required to obtain the approval of the agency under this part shall give the attorney general at least ninety days’ prior notice of an impending acquisition, during which time the attorney general may take any necessary and appropriate action consistent with general duties of oversight with regard to the conduct of charities, if applicable. The notice shall briefly describe the impending acquisition, including any change in ownership of tangible or intangible assets.

(c) The application shall be submitted to the agency and the attorney general on forms provided by the agency and shall include:

- (1) The name of the seller, the name of the purchaser, and the names of other parties to an acquisition;
- (2) The terms of the proposed agreement;
- (3) The sale price;

- (4) A copy of the acquisition agreement;
- (5) A financial and economic analysis and report from an independent expert or consultant of the effect of the acquisition under the criteria set forth in section 323D-F; and
- (6) All other related documents.

A copy of the application and copies of all additional related materials shall be submitted to the agency and to the attorney general at the same time. The applications and all related documents shall be considered government records.

**§323D-C Notice; procedures.** (a) Within five working days after receipt of a complete application under section 323D-B, the agency shall give public notice of the application in the affected county or counties where the hospital is located and shall notify by first-class mail any person who has requested notice of the filing of such applications. The public notice shall state that a completed application has been received, state the names of the parties to the agreement, describe the contents of the application, and state the date by which a person may submit written comments about the application to the agency.

(b) Within ninety days after receiving a complete application, the agency shall review the application in accordance with the standards set forth in this part and approve or disapprove the acquisition.

Within twenty days after receiving a complete application, the attorney general shall determine whether a review of the application in accordance with section 323D-F is appropriate and notify the applicant if a review is warranted. If the attorney general determines that a review is unnecessary or not appropriate, then none of the other provisions of this part applicable to review by the attorney general shall apply.

(c) For acquisitions which require approval from the agency under this part and a certificate of need, the applicant shall submit a single application for both purposes and the application shall be reviewed under a single unified review process by the agency. Following the single unified review process, the agency shall simultaneously issue its decision regarding the certificate of need and its decision for purposes of the sale of a hospital under this part.

**§323D-D Hearings.** (a) The agency, after consultation with the attorney general, shall, if appropriate, hold a public hearing during the course of review, which hearing may be held jointly with the certificate of need review panel or the statewide health coordinating council, and in which any person may file written comments and exhibits or appear and make a statement. The agency or the attorney general may subpoena additional information or witnesses, require and administer oaths, require sworn statements, take depositions, and use related discovery procedures for purposes of the hearing and at any time prior to making a decision on the application.

(b) The hearing shall be held no later than sixty days after receipt of a complete application. The hearing shall be held upon ten working days' notice, not including days the application is deemed to be incomplete.

**§323D-E Review; decision; rules.** (a) The attorney general shall conduct its review of the application in accordance with the standards enumerated in section 323D-F. Within ninety days after receipt of an application, the attorney general shall review and approve or disapprove the acquisition.

(b) If the attorney general does not act within ninety days after receipt of an application, the application shall be deemed approved. If the attorney general approves or disapproves the acquisition, the applicant, or any person who has submitted comments and has a legal interest in the hospital being acquired or in

another hospital that has contracted with the acquired hospital for the provision of essential health services, may bring an action for declaratory judgment for a determination that the acquisition is or is not in the public interest under the criteria set forth in section 323D-F.

(c) The agency shall review the completed application in accordance with the standards enumerated in section 323D-G. Within ninety days after receipt of a completed application, the agency shall:

- (1) Approve the acquisition, with or without any specific modifications; or
- (2) Disapprove the acquisition.

The agency shall not make its decision subject to any condition not directly related to criteria enumerated in section 323D-G, and any condition or modification shall bear a direct and rational relationship to the application under review.

(d) Any affected person may appeal a final decision by the agency to the reconsideration committee created under section 323D-47 under procedures substantially similar to those for appeals of health care certificate of need decisions. The reconsideration committee shall have the same powers and duties with respect to appeals under this part as exist for appeals to the reconsideration committee regarding issuance of certificates of need. The findings, conclusions, and decisions of the reconsideration committee shall constitute the determination of the agency. The agency, the applicant, or any affected person who has intervened in the matter before the reconsideration committee may seek judicial review of any agency determination.

(e) If both the agency and the attorney general review the application, it shall not be granted unless it is approved by both.

#### **§323D-F Acquisition in the public interest; decision of attorney general.**

If the attorney general determines that a review of the application is appropriate, the attorney general shall approve the application unless the attorney general finds that the acquisition is not in the public interest. An acquisition of a private nonprofit hospital is not in the public interest unless appropriate steps have been taken to safeguard the value of charitable assets and ensure that any proceeds of the transaction are used for appropriate charitable health care purposes as provided in paragraph (8). In determining whether the acquisition meets such criteria, the attorney general shall consider, as applicable:

- (1) Whether the acquisition is permitted under chapter 415B governing nonprofit entities, trusts, or charities;
- (2) Whether the hospital acted in a duly diligent manner in deciding to sell, selecting the purchaser, and negotiating the terms and conditions of the sale;
- (3) The procedures used by the seller in making its decision, including whether appropriate expert assistance was used;
- (4) Whether all conflicts of interest were disclosed, including, but not limited to, conflicts of interest related to board members of, executives of, and experts retained by the seller, purchaser, or parties to the acquisition;
- (5) Whether the seller will receive reasonably fair value for its assets. The attorney general may employ, at the seller's expense, reasonably necessary expert assistance in making this determination;
- (6) Whether charitable funds are placed at unreasonable risk, if the acquisition is financed in part by the seller;
- (7) Whether any management contract under the acquisition is for reasonably fair value;
- (8) Whether the sale proceeds will be used for appropriate charitable health care purposes consistent with the seller's original purpose or for the

support and promotion of health care in the affected community, and will be controlled as charitable funds independent of the purchaser or parties to the acquisition; and

- (9) Whether a right of first refusal to repurchase the assets by a successor nonprofit corporation or foundation has been retained, if the hospital is subsequently sold to, acquired by, or merged with another entity.

**§323D-G Acquisition; decision by agency.** In making a decision whether to approve or disapprove an application, the agency shall consider:

- (1) Whether sufficient safeguards are included to ensure that the affected community has continued access to affordable care;
- (2) Whether the purchaser and parties to the acquisition have made a commitment to provide health care to the disadvantaged, uninsured, and underinsured, and to provide benefits to the affected community to promote improved health care. Current and prior health care activities and funding for those activities by the seller or its successor nonprofit corporation or foundation may be considered in evaluating compliance with this commitment;
- (3) If health care providers will be offered the opportunity to invest or own an interest in the purchaser or a related entity to the purchaser; and
- (4) Whether procedures or safeguards are in place to avoid conflict of interest in patient referral and the nature of those procedures or safeguards.

This section does not apply higher standards to hospitals covered by this part than those applicable to hospitals not covered by this part.

**§323D-H Revocation; hearing.** If the agency receives information indicating that the acquiring person is not fulfilling the commitment to the affected community under section 323D-G, the agency shall hold a hearing upon ten days' notice to the affected parties. If after the hearing the agency determines that the information is true, the department may institute proceedings to revoke the license issued to the purchaser.

**§323D-I Public interest.** The attorney general shall have the authority to ensure compliance with commitments made pursuant to section 323D-G.

**§323D-J License renewal.** No license to operate a hospital may be issued or renewed by the department of health pursuant to this chapter, and a license which has been issued shall be subject to revocation or suspension, if:

- (1) There is an acquisition of a hospital without first having received the approval of the agency under this part;
- (2) There is an acquisition of a hospital without the approval of the attorney general, if the attorney general determines that a review of the application is appropriate under this part;
- (3) There is an acquisition of a hospital and the attorney general disapproves the acquisition and there is a judicial determination that the acquisition is not in the public interest; or
- (4) The hospital is not fulfilling its commitment under section 323D-G or is not following procedures or safeguards required under section 323D-G(4).

This section does not limit the right to a hearing or the right of appeal for a hospital from such decision.

**§323D-K Prior acquisitions.** Any acquisition of a hospital before the effective date of this part and any acquisition in which an application for a certificate of need has been granted by the agency before the effective date of this part is not subject to this part.

**§323D-L Maintenance of services.** (a)<sup>1</sup> A person who has acquired or is engaged in the acquisition of a hospital shall not substantially reduce or eliminate direct patient care services at the hospital below the levels at which those services were available at the time of the acquisition, without first giving written notice of the planned reduction or elimination to the agency and receiving the agency's approval, prior to implementing the reduction or elimination of services.

**§323D-M Statutory authority.** No provision of this part shall derogate from the common law or statutory authority of the attorney general."

SECTION 2. In codifying the new sections added by section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**Note**

1. No subsection (b) designation.

**ACT 258**

S.B. NO. 2469

A Bill for an Act Relating to the Uniform Securities Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 485, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§485-A Federal covered securities.** (a) The commissioner, by rule or otherwise, may require the filing of any or all of the following documents with respect to a federal covered security under section 18(b)(2) of the Securities Act of 1933:

- (1) Prior to the initial offer of a federal covered security in this State and for purposes of renewal, a copy of the registration statement filed by the issuer with the Securities and Exchange Commission, or in lieu of filing a registration statement, a notice as prescribed by the commissioner;
- (2) A consent to service of process; and
- (3) An initial filing fee of \$200 and an annual renewal fee of \$50 thereafter. The renewal fee shall be collected within two months of the end of the investment or trust company's fiscal year. With respect to an open-end management company, the fees shall be assessed per fund.

(b) The commissioner, by rule or otherwise, may require the issuer of any security that is a federal covered security under section 18(b)(4)(D) of the Securities Act of 1933, to file a notice no later than fifteen days after the first sale in this State of a federal covered security on Securities and Exchange Commission Form D or comparable form, together with a consent to service of process and a \$200 filing fee.

(c) The commissioner, by rule or otherwise, may require the filing of any document filed with the Securities and Exchange Commission under the Securities Act of 1933, for any security that is a federal covered security under section 18(b)(4) of the Securities Act of 1933.

(d) The commissioner, by rule or otherwise, may waive any or all of the provisions of subsection (a), (b), or (c).

**§485-B Notice filing requirements for federal covered advisers.** It is unlawful for a person to transact business in this State as a federal covered adviser unless the person has filed with the commissioner a copy of those documents that have been filed by the federal covered adviser with the Securities and Exchange Commission that the commissioner, by rule or otherwise, requires to be filed, together with a consent to service of process and a filing fee in the amount specified for investment advisers under section 485-14(l). This filing shall be effective upon receipt and, unless renewed prior to expiration, shall expire on December 31 of each odd-numbered year. It may be renewed by filing with the commissioner those documents that have been filed with the Securities and Exchange Commission that the commissioner, by rule or otherwise, requires to be filed, together with a renewal fee in an amount specified for investment advisers under section 485-14(l). The commissioner may require a federal covered adviser who has filed under this chapter to file any amendments filed with the Securities and Exchange Commission with the commissioner. This filing may be terminated by filing a written notice of termination with the commissioner. The commissioner, by rule or otherwise, may waive any or all of the provisions of this section.”

SECTION 2. Section 485-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

““Federal covered adviser” means a person who is registered with the Securities and Exchange Commission under section 203 of the Investment Advisers Act of 1940. “Federal covered adviser” does not include:

- (1) A person who is excluded from the definition of “investment adviser” under section 485-1(6)(A) to (I); or
- (2) Other persons not within the intent of this definition as the commissioner by rule or order may designate.

“Federal covered security” means any security that is a “covered security” under section 18(b) of the Securities Act of 1933 or the rules or regulations promulgated thereunder.”

SECTION 3. Section 485-1, Hawaii Revised Statutes, is amended by amending the definitions of “investment adviser” and “investment adviser representative” to read as follows:

- (6) “Investment adviser” means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. “Investment adviser” does not include:
  - (A) [a] A bank, savings institution, or trust company;
  - (B) [a] A lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of the lawyer’s, accountant’s, engineer’s, or teacher’s profession;

- (C) [a] A dealer whose performance of these services is solely incidental to the conduct of the dealer's business as a dealer and who receives no special compensation for them;
  - (D) [a] A publisher of any bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation;
  - (E) [a] A person whose advice, analyses, or reports relate only to securities exempted by section 485-4(1);
  - (F) [a] A person who has no place of business in this State if:
    - (i) [the] The person's only clients in this State are other investment advisers, dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees[,]; or
    - (ii) [during] During any period of twelve consecutive months the person does not [direct business communications into this State in any manner to] have more than five clients who are residents of this State other than those specified in clause (i)[, whether or not the person or any of the persons to whom the communications are directed is then present in this State];
  - (G) [a] A person who is employed by [a mutual fund which] an investment company that is registered [with the Securities and Exchange Commission;] under the Investment Company Act of 1940;
  - (H) [a] A person who:
    - (i) [is] Is registered with the United States Securities and Exchange Commission under the Investment Advisers Act of 1940[,];
    - (ii) [does] Does not have custody of any client money, securities, or other assets[,];
    - (iii) [does] Does not collect fees from clients more than six months in advance of the end of the period for which [such] the fees are intended to compensate the person for the person's services[,];
    - (iv) [has] Has discretionary authority over client money, securities, or other assets only to invest in securities in which the person has no ownership interest or is considered to have an ownership interest[,]; and
    - (v) [does] Does not advise a client whose money, securities, and other assets under management by [such] the person have a market value of less than \$250,000 per each separate account under management on the date of the inception of the client relationship; [or (I) such other]
  - (I) A person who is excluded from the definition of "investment adviser" under section 202(a)(11) of the Investment Advisers Act of 1940;
  - (J) A federal covered adviser; or
  - (K) Other persons not within the intent of this paragraph as the commissioner [may] by rule or order may designate.
- (7) "Investment adviser representative" means:

- (A) With respect to an investment adviser, any individual other than an investment adviser who represents an investment adviser in the business of advising others, either directly or through publications or writings as to the value of securities or as to the advisability of investing in, purchasing, or selling securities[.]; and
- (B) With respect to a federal covered adviser, any person defined as an “investment adviser representative” who has a “place of business” in this State as those terms are defined in rule 203A-3 of the Securities and Exchange Commission under the Investment Advisers Act of 1940.”

SECTION 4. Section 485-4, Hawaii Revised Statutes, is amended to read as follows:

“§485-4 Exempt securities. The following securities are exempt from sections 485-A, 485-8, and 485-25(a)(7):

- (1) Any security (including a revenue obligation) issued or guaranteed by the United States, any state or territory, any political subdivision of a state or territory, or any agency or corporate or other instrumentality of one or more of the foregoing, or any certificate of deposit for any of the foregoing;
- (2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of [such] the province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;
- (3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank, savings institution, or trust company organized and supervised under the laws of any state or territory or any investment certificate issued by a financial services loan company duly licensed under the financial services loan law of the State of Hawaii;
- (4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association or any building and loan or similar association organized under the laws of any state or territory and authorized to do business in the State;
- (5) Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of any state or territory and authorized to do business in the State;
- (6) Any security issued or guaranteed by any federal credit union, or any credit union or similar association organized and supervised under the laws of the State;
- (7) Any security issued or guaranteed by any common carrier, public utility, or holding company which is:
  - (A) [subject] Subject to the jurisdiction of the Interstate Commerce Commission;
  - (B) [a] A registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that Act;
  - (C) [regulated] Regulated in respect of its rates and charges by a governmental authority of the United States or any state or territory; or



- (D) [regulated] Regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States or any state or territory;
- (8) Any security, other than a security that is a federal covered security pursuant to section 18(b)(1) of the Securities Act of 1933 and therefore not subject to any registration or filing requirements under this chapter, that is listed or approved for listing upon notice of issuance on any exchange registered or exempted under the Securities Exchange Act of 1934, as amended; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe for any of the foregoing;
- (9) Any security issued by any issuer organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes, or as a chamber of commerce or trade or professional association;
- (10) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of [such] the paper which is likewise limited, or any guarantee of [such] the paper or of any [such] renewal;
- (11) Any investment contract issued in connection with an employees' stock purchase, savings, pension, profit-sharing, or similar benefit plan;
- (12) Any option on a commodity futures contract subject to regulation under the Commodity Exchange Act;
- [(13) Any security issued by an "investment company" as defined by and registered under the "Investment Company Act of 1940" (15 U.S.C. 80a); provided that:
- (A) The issuer is:
- (i) Advised by an investment adviser that is a depository institution, subsidiary, or affiliate thereof, any of which are exempt from registration under the Investment Advisers Act of 1940 (15 U.S.C. 80a-1), or is currently registered as an investment adviser, and has been registered, or is affiliated with an adviser that has been registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) for at least three years immediately preceding an offer or sale of a security claimed to be exempt under this paragraph and the investment adviser has acted, or is affiliated with an investment adviser that has acted, as an investment adviser to one or more registered investment companies or unit investment trusts for at least three years immediately preceding an offer or sale of a security claimed to be exempt under this paragraph; or
  - (ii) The issuer has a sponsor that has at all times throughout the three years prior to an offer or sale of a security claimed to be exempt under this paragraph, sponsored one or more registered investment companies or unit investment trusts whose aggregate total assets have exceeded \$100,000,000; and
- (B) The commissioner has received prior to any sale exempted under this paragraph:

- (i) A notice of intention to sell setting forth the name and address of the issuer and the securities to be offered in this State; and
- (ii) An initial filing fee of \$200 per fund for open-end management companies or a fee of \$200 for unit investment trusts, and an annual renewal fee of \$50 thereafter, to be collected within two months of the end of the investment or trust company's fiscal year.

An exemption under this paragraph does not constitute an exemption from the licensing requirements for salespersons under section 485-14. If any offer or sale is to be made more than twelve months after the date notice under subparagraph (B)(i) is received by the commissioner, another notice and payment of the applicable fee shall be required.

For purposes of this paragraph, an investment adviser is affiliated with another investment adviser if the investment adviser controls, is controlled by, or is under common control with the other investment adviser;

- (14) ~~(13)~~ Any cooperative association membership stock, membership certificates or [share,] shares, or membership capital, pursuant to section 421C-36, or chapter 421;
- [(15)] ~~(14)~~ Any security[, except a security issued by an issuer registered as an open-end management company or unit investment trust under the Investment Company Act of 1940 (15 U.S.C. 80a),] for which a registration statement has been filed under the Securities Act of 1933[.]; provided that no sale shall be made until [such] the registration statement has become effective; and
- [(16)] ~~(15)~~ Any variable annuity contract which is an investment contract prepared by a life insurance company designed to offer continuous income through participation in a mutual fund portfolio or a variable annuity contract based upon a separate account which is registered as a management investment company with the Securities and Exchange Commission.”

SECTION 5. Section 485-6, Hawaii Revised Statutes, is amended to read as follows:

“**§485-6 Exempt transactions.** The following transactions are exempted from sections 485-A, 485-8, and 485-25(a)(7):

- (1) Any isolated nonissuer transaction, whether effected through a dealer or not;
- (2) Any nonissuer distribution of an outstanding security if the manual of Hawaiian securities or any other recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within eighteen months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, or the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years (or during the existence of the issuer and any predecessors if less than three years) in the payment of principal, interest, or dividends on the security;
- (3) Any nonissuer transaction effected by or through a registered dealer pursuant to an unsolicited order or offer to buy;

- (4) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;
- (5) Any transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit;
- (6) Any transaction by a personal representative, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator;
- (7) Any transaction executed by a bona fide pledgee without any purpose of evading this chapter;
- (8) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a dealer, whether the purchaser is acting for itself or in some fiduciary capacity;
- (9) Any transaction pursuant to an offer directed by the offerer to not more than twenty-five persons (other than those designated in paragraph (8)) in the State during any period of twelve consecutive months, whether or not the offerer or any of the offerees is then present in the State, if all buyers represent that they are purchasing for investment (rather than with a present view to resale) and the seller reasonably accepts their representations as true, and no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer;
- (10) Any offer or sale of a preorganization certificate or subscription for any security to be issued by any person if no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber, and the number of subscribers does not exceed twenty-five;
- (11) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within ninety days of their issuance, if no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in the State;
- (12) Any offer (but not a sale) of a security for which registration statements have been filed under both this chapter and the Securities Act of 1933, if no stop order or refusal order is in effect and no public proceeding or examination looking toward [such an] the order is pending under either this chapter or [such] the Act;
- (13) Any offer or sale by or through a real estate broker or real estate salesperson licensed under the laws of the State [as such], of a security issued on or after July 1, 1961, by a corporation organized under the laws of the State, the holder of which is entitled solely by reason of the holder's ownership thereof, to occupy for dwelling purposes, or to a lease which entitles the holder to occupy for dwelling purposes a house, or an apartment in a building, owned or leased by [such] the corporation, subject, however, to section 485-7;
- (14) Any offer or sale by or through a real estate broker or real estate salesperson licensed [as such] under the laws of the State of an apartment in a condominium project, and a rental management contract relating to [such] the apartment, including an interest in a general or limited partnership formed for the purpose of managing the rental of

- apartments if the rental management contract or the interest in the general or limited partnership is offered at the same time as the apartment is offered. The words “apartment”, “condominium”, and “project” are defined as they are defined in section 514A-3; and
- (15) Any transactions not involving a public offering, and in addition, any categories of transactions effected in accordance with [such] any rules [as] the commissioner may issue under chapter 91 pursuant to this paragraph with a view to uniformity with federal law.”

SECTION 6. Section 485-8, Hawaii Revised Statutes, is amended to read as follows:

**“§485-8 Registration of securities.** It shall be unlawful for any person to sell or offer to sell in the State, any security except of a class exempt under section 485-4 or unless sold or offered in any transaction exempt under section 485-6 [in the State] or unless it is a federal covered security, unless the security has been registered by notification or by qualification as hereinafter provided. Registration of stock shall be deemed to include the registration of rights to subscribe to the stock if the notice under section 485-9 or the application under section 485-10 includes a statement that the rights are to be issued. A record of the registration of securities shall be kept in a register of securities to be kept in the office of the commissioner of securities in which register [shall] also shall be recorded any notice filings made pursuant to section 485-A and any orders entered by the commissioner with respect to the securities. The register and all information with respect to the securities registered therein shall be open to public inspection.”

SECTION 7. Section 485-12, Hawaii Revised Statutes, is amended to read as follows:

**“§485-12 Commissioner as agent to accept service; consent to; actions in what circuit; notice to issuer.** Upon any notice filing under section 485-A, any application for registration by notification under section 485-9 made by an issuer [and upon], or any application for registration by qualification under section 485-10, whether made by an issuer or registered dealer, there shall be filed with the initial notice filing or the application the irrevocable written consent of the issuer that in suits, proceedings, and actions growing out of the violation of this chapter, the service on the commissioner of securities of any notice, process, or pleading therein, authorized by the laws of the State, shall be as valid and binding as if due service had been made on the issuer. Any [such] action shall be brought either in the circuit of the plaintiff’s residence or in the circuit in which the commissioner has the commissioner’s office. The written consent shall be authenticated by the seal of the issuer, if it has a seal, and by the acknowledged signature of a member of the copartnership or company, or by the acknowledged signature of any officer of the incorporated or unincorporated association, if it is an incorporated or unincorporated association, duly authorized by resolution of the board of directors, trustees, or managers of the corporation or association, and shall [in such case] be accompanied by a duly certified copy of the resolution of the board of directors, trustees, or managers of the corporation or association, authorizing the officers to execute the same. In case any process or pleadings mentioned in this chapter are served upon the commissioner, it shall be by duplicate copies, one of which shall be filed in the office of the commissioner and another immediately forwarded by the commissioner by registered mail to the principal office of the issuer against which the process or pleadings are directed.”

SECTION 8. Section 485-14, Hawaii Revised Statutes, is amended by amending subsections (e), (f), (g), and (h) to read as follows:

“(e) Registration of investment advisers. An application for registration, duly verified by oath by the applicant, shall be filed in the office of the commissioner accompanied by an irrevocable written consent to the service of process upon the commissioner in actions against the investment adviser in manner and form provided in section 485-12; the applicant’s photograph; and a form of the disclosure statement described in section 485-25(c)(4). Information on the registration statement shall include:

- (1) The name and form of organization under which the investment adviser engages or intends to engage in business; the name of the state or other sovereign power under which the investment adviser is organized; the location of the investment adviser’s principal business office and branch offices, if any; the names and addresses of the investment adviser’s partners, officers, directors, and persons performing similar functions or, if the investment adviser is an individual, of [such] the individual; and the number of the investment adviser’s employees;
- (2) The education, the business affiliations for the past five years, and the present business affiliations of the investment adviser and of the investment adviser’s partners, officers, directors, and persons performing similar functions and of any controlling person thereof;
- (3) The nature of the business of the investment adviser, including the manner of giving advice and rendering analyses or reports;
- (4) A balance sheet certified by an independent public accountant and other certified financial statements if the investment adviser has custody of or discretionary authority over client money, securities, or other assets, or an unaudited, verified balance sheet and financial statements if the investment adviser has no custody of or discretionary authority over client money, securities, or other assets[;]. If the investment adviser maintains its principal place of business in a state other than this State and the investment adviser is registered in that state and in compliance with its financial reporting requirements, this requirement shall be deemed satisfied by the investment adviser filing with the commissioner a copy of those financial statements, if any, that are required to be filed by the adviser in the state where it maintains its principal place of business;
- (5) The nature and scope of the authority of the investment adviser with respect to clients’ funds and accounts;
- (6) The basis or bases upon which the investment adviser is compensated;
- (7) Whether the investment adviser, or any person employed by or associated in business with the investment adviser, is subject to any disqualification which would be a basis for denial, suspension, or revocation of registration of the investment adviser under section 485-15;
- (8) A statement as to whether the principal business of the investment adviser consists or is to consist of acting as investment adviser; and
- (9) Other information as to the applicant’s previous history, record, and association [as] that the commissioner deems necessary including:
  - (A) Disclosure of any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony;
  - (B) The applicant’s financial history; and
  - (C) Any additional information [as] that the commissioner deems necessary to establish the applicant’s qualifications.

The commissioner may use a uniform registration form adopted by the North American Securities Administrators Association, the Securities and Exchange Commission, or any national securities exchange or national securities association registered under the Securities Exchange Act of 1934; provided [such] the form encompasses the information required under this section.

[If an applicant is currently registered by the United States Securities and Exchange Commission or any national securities exchange or national securities association registered under the Securities Exchange Act of 1934, the commissioner may accept a certified copy of the registration application the applicant submitted to obtain such registration in lieu of the application required by this section.]

(f) Approval, bond. If the commissioner finds that the applicant for registration as a dealer is eligible for [such] registration, then the commissioner shall register the applicant as a dealer upon payment of the fee hereinafter provided and, except as otherwise provided in this subsection, upon [such] the dealer's filing a bond in the sum of \$5,000 running to the State conditioned upon the faithful compliance with this chapter by the dealer and by all salespersons registered by the dealer while acting for the dealer. The bond shall be executed as surety by a surety company authorized to do business in the State; provided that no bond is required of or from any [such] applicant if the applicant at the time of making application is a member of any recognized stock or bond exchange which has been in existence for a period of five years prior to April 29, 1931; provided further that no bond is required of a dealer if the aggregate par value of the securities to be sold is less than \$5,000 or in the case of no par value stock, if the price at which the stock is to be offered to the public is less than \$5,000 if the person selling or offering the securities for sale to the public notifies the commissioner in writing of the person's intention to make the sale and after the sale files with the commissioner a statement of the kind and amount of stock sold and the price received therefor, but where the aggregate par value of the securities or the price at which the stock is to be offered to the public is less than \$5,000 no more than one [such] sale or offering shall be allowed within a period of one year; provided further that in lieu of the above bond any dealer may deposit and keep deposited with the commissioner cash in the amount of \$5,000 or securities to be approved by the commissioner having a market value at all times of not less than \$5,000 which cash or securities shall be held in trust for the fulfilling of the same terms and conditions as in the case of a bond required by this section, which cash or securities may be withdrawn at any time subject to the deposit in lieu thereof of cash or other securities of equal value, or upon the filing of a bond as provided in this section, and which cash or securities will be so held in trust for a period of two years beyond the revocation or termination of the registration of the dealer depositing the same. No bond shall be required under this section or under this chapter of any dealer that is registered under the Securities Exchange Act of 1934.

(g) Investment adviser's approval; bond, insurance required. If the commissioner finds that the applicant for registration as an investment adviser is eligible for [such] registration, the commissioner shall register the investment adviser upon a payment of a fee hereinafter provided and, except as otherwise provided in this subsection, upon the investment adviser filing a bond in the sum of \$50,000 with the State as the obligee. The bond requirement shall be \$5,000 if the adviser does not have custody of or discretionary authority over client money, securities, or other assets. The bond shall be conditioned upon the faithful compliance with this chapter by the investment adviser. The bond shall be executed as a surety by a surety company authorized to do business in the State; provided that in lieu of the above bond any investment adviser may deposit and keep deposited with the commissioner cash in the applicable amount of \$50,000 or \$5,000 or securities to be approved by the commissioner having a market value at all times of not less than \$50,000 or \$5,000 which cash or securities shall be held in trust for the fulfilling of the same

terms and conditions as in the case of a bond required by this section, which cash or securities may be withdrawn at any time subject to the deposit in lieu thereof of cash or other securities of equal value, or upon the filing of a bond as provided in this section, and which cash or securities will be so held in trust for a period of two years beyond the revocation or termination of the registration of the investment adviser depositing the same. In addition, except as otherwise provided in this subsection, the investment adviser shall file with the commissioner a certificate of insurance which indicates that [such] the investment adviser's business is insured for errors and omissions for at least \$100,000 per occurrence with a \$200,000 aggregate for those with less than two years experience and a \$500,000 aggregate for those with two or more years of experience for the protection of the investment adviser's client, or shall meet an alternative requirement which also provides for the protection of the client of the investment adviser, as determined by rules adopted by the commissioner. This subsection shall not apply to any investment adviser that maintains its principal place of business in a state other than this State; provided that the investment adviser is registered in the state where it maintains its principal place of business and in compliance with that state's net capital and bonding requirements, if any.

(h) Eligibility for registration as a salesperson. To be eligible for registration under this chapter a salesperson shall have complied with the mandatory provisions [mandatory] of this section, shall be designated as a salesperson by a registered dealer, and shall take and pass an oral or written examination, or both, prescribed by the commissioner, to test the salesperson's knowledge of the securities business. Every person required to take such an examination shall, at or before the time the person takes the same, pay a fee as prescribed by the commissioner. However, registration is not required of a salesperson who represents a dealer in effecting transactions in this State limited to those transactions described in section 15(h)(2) of the Securities Exchange Act of 1934. No person shall be designated as a salesperson by, or shall act as a salesperson for, more than one registered dealer."

SECTION 9. Section 485-14, Hawaii Revised Statutes, is amended by amending subsections (j) and (k) to read as follows:

“(j) Eligibility for registration as an investment adviser representative. To be eligible for registration under this chapter, an investment adviser representative shall have complied with the mandatory provisions [mandatory] of this section, shall be designated as a representative by a federal covered adviser or a registered investment adviser, and shall take and pass an oral or written examination, or both, prescribed by the commissioner, to test the representative's knowledge of the investment advisory and securities business; provided that the commissioner may by rule set forth exemptions to the examination requirement. Every person required to take [such] an examination shall, at or before the time the person takes the same, pay a fee as prescribed by the commissioner. No person shall be designated as an investment adviser representative by, or shall act as an investment adviser representative for, more than one federal covered adviser or registered investment adviser.

(k) Registration of investment adviser representative. An information statement, containing [such] information [as] that the commissioner shall prescribe, duly verified by oath by the applicant, shall be filed in the office of the commissioner, together with an appointment of the applicant as an investment adviser representative by a registered investment adviser[.] if the representative is seeking registration with an investment adviser. The commissioner may require the following:

- (1) Disclosure of any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony;

- (2) The applicant's financial history and condition;
- (3) Disclosure as to whether the investment adviser representative, or any person associated in business with the investment adviser representative, is subject to any disqualification which would be a basis for denial, suspension, or revocation of registration of the investment adviser representative under section 485-15; and
- (4) Any additional information [as] that the commissioner deems necessary to establish the applicant's qualifications.

If the commissioner finds an investment adviser representative designated by any federal covered adviser or investment adviser to be eligible for registration as an investment adviser representative, the commissioner shall register the person as an investment adviser representative upon the payment of a fee hereinafter provided."

SECTION 10. Section 485-14, Hawaii Revised Statutes, is amended by amending subsection (q) to read as follows:

"(q) Capital requirement for dealers and investment advisers who have custody of or discretionary authority over client money, securities, or other assets. [The] Except as otherwise provided in this subsection, the commissioner may by rule require a minimum capital requirement for registered dealers which shall not be less than \$5,000 in the case of dealers and prescribe a ratio between net capital and aggregate indebtedness. This subsection shall not apply to any dealer that is registered under the Securities Exchange Act of 1934. The commissioner may by rule require a net worth requirement which shall not be less than \$5,000 for investment advisers. This subsection shall not apply to any investment adviser that maintains its principal place of business in a state other than this State; provided that the investment adviser is registered in the state where it maintains its principal place of business and is in compliance with that state's net worth or net capital requirements, if any."

SECTION 11. Section 485-16, Hawaii Revised Statutes, is amended to read as follows:

**"§485-16 Dealers' and investment advisers' records and reports; commissioner's powers.** [Every] (a) Except as otherwise provided in this section, every dealer and investment adviser registered under this chapter shall make and keep for a period of three years after the close of the calendar or fiscal year to which they pertain, full and complete records of the dealer's or investment adviser's business, which records shall be open to inspection by the commissioner of securities and, in addition, shall file with the commissioner [such] annual or special reports of the condition, financial or other, of the dealer or investment adviser, in [such] the form and detail, [as] that the commissioner shall require. For the purpose of avoiding unnecessary duplication of inspections and examinations, the commissioner may cooperate with the securities administrators of other states, the Securities and Exchange Commission, and any national securities exchange or national securities association registered under the Securities Exchange Act of 1934. If any [such] dealer or investment adviser fails or refuses to make or keep any [such] record or to file any [such] report, the commissioner may subpoena the dealer, investment adviser, or any person having knowledge of the dealer's or investment adviser's affairs to appear and testify or produce documentary evidence, administer oaths, and examine the dealer, or investment adviser, or any [such] person under oath with respect to the affairs of the dealer or investment adviser. The subpoena shall have the same force and effect and shall be served in the same manner as if issued from a court of record. Witness fees and mileage claims shall be allowed the same as for



testimony in a court of record. Witness fees, mileage, and actual expenses necessarily incurred in securing the attendance of witnesses and of testimony and the production of documents shall constitute a charge against the dealer or investment adviser, recoverable by action by the State for the use of the persons entitled thereto. If any individual fails to obey the subpoena or obeys the subpoena and refuses to testify when required concerning the matter under investigation, the commissioner shall file the commissioner's written report thereof and proof of service of the commissioner's subpoena in the circuit court for the circuit in which the examination is being conducted. Thereupon, the court shall forthwith cause the individual to be brought before it to show cause why the individual should not be held in contempt; and if so held, may punish the individual as if the failure or refusal related to a subpoena from or testimony in that court.

(b) This section shall not apply to any dealer that is registered under the Securities Exchange Act of 1934 or to an investment adviser that maintains its principal place in a state other than this State; provided the investment adviser is registered in the state where it maintains its principal place of business and is in compliance with that state's recordkeeping requirements, if any. The commissioner may require:

- (1) The filing of any financial or operational report that is required to be filed under the Securities Exchange Act of 1934 or under the laws of the state where an investment adviser maintains its principal place of business; and
- (2) The production of any document, in accordance with the procedures set forth in subsection (a), required to be maintained by a dealer registered under the Securities Exchange Act of 1934 or by the state in which an investment adviser maintains its principal place of business."

SECTION 12. Section 485-25, Hawaii Revised Statutes, is amended to read as follows:

**“§485-25 Fraudulent and other prohibited practices.** (a) It is unlawful for any person, in connection with the offer, sale, or purchase (whether in a transaction described in section 485-6 or otherwise) of any security (whether or not of a class described in section 485-4), in the State, directly or indirectly:

- (1) To employ any device, scheme, or artifice to defraud;
- (2) To make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading;
- (3) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person;
- (4) To issue, circulate, or publish any prospectus, circular, advertisement, printed matter, document, pamphlet, leaflet, or other literature (in this chapter sometimes referred to collectively as “advertising matter”) which shall contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein made, in the light of the circumstances under which they are made, not misleading;
- (5) To issue, circulate, or publish any advertising matter or make any written representation, unless the name of the person issuing, circulating, publishing, or making the same and the fact that the person is issuing, circulating, or making the same shall be clearly indicated thereon;
- (6) To make any statement or representation, or issue, circulate, or publish any advertising matter containing any statement, to the effect that the

security has been in any way approved or endorsed by the commissioner of securities; or

- (7) To issue, circulate, or publish any advertising matter unless a copy thereof has been previously filed with the office of the commissioner, or unless the commissioner has by rule or order exempted the filing of any advertising material.

(b) It is unlawful for any person who receives any consideration from another person primarily for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analyses or reports or otherwise:

- (1) To employ any device, scheme, or artifice to defraud the other person; or
- (2) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon the other person.

(c) It is unlawful for any investment adviser to enter into, extend, or renew any investment advisory contract unless it provides in writing:

- (1) That the investment adviser shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client;
- (2) That no assignment of the contract may be made by the investment adviser without the consent of the other party to the contract;
- (3) That the investment adviser, if a partnership, shall notify the other party to the contract of any change in the membership of the partnership within a reasonable time after the change;
- (4) That the investment adviser and investment adviser representative shall disclose to the client in a separate disclosure statement the capacity in which the investment adviser and investment adviser representative are acting and the compensation to be received in situations where:
  - (A) [the] The investment adviser is acting as principal for the investment adviser's own account and knowingly sells any security to or purchases any security from a client for whom the investment adviser is acting as investment adviser[, or,]; or
  - (B) [the] The investment adviser is acting as broker for a person other than the client and knowingly effects any sale or purchase of securities, real estate, insurance contracts, annuities contracts, or any types of real or personal property for the account of the client;

and

- (5) That the investment adviser and investment adviser representative shall provide the disclosure statement described in subsection (c)(4) and obtain the written consent of the client to the transactions described in the disclosure statement prior to the closing of the transactions.

[Clause] Paragraph (1) does not prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates or taken as of a definite date. "Assignment", as used in [clause] paragraph (2), includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but, if the investment adviser is a partnership, no assignment of an investment advisory contract is considered to result from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser, or from the admission to the investment adviser of one or more members who, after admission, will be only a minority of the members and will have only a minority interest in the business.

(d) It is unlawful for any investment adviser to use any scheme, device, or artifice to circumvent or attempt to circumvent the prohibitions or limitations in subsection (c).

(e) Subsection (a)(5) and (7) shall not apply to any advertising matter that is covered by section 18(a) of the Securities Act of 1933, which relates to or is used in connection with the offer or sale of a federal covered security.’’

SECTION 13. In codifying the new sections added by section 1 and referred to in this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 14. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 15. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 259**

S.B. NO. 2559

A Bill for an Act Relating to Explosives.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 396-3, Hawaii Revised Statutes, is amended by repealing the definition of “manufacturer”.

[““Manufacturer” means, for the purpose of the section concerning explosives, any person who is engaged in the manufacture of explosives or who otherwise produces any explosive.”]

SECTION 2. Section 396-3, Hawaii Revised Statutes, is amended by amending the definition of “dealer” to read as follows:

““Dealer” means, for the purpose of the section concerning explosives, any person, [not a manufacturer,] corporation, partnership, association, association of dealers, or other form of business enterprise engaged in the business of buying and selling explosives.”

SECTION 3. Section 396-9, Hawaii Revised Statutes, is amended to read as follows:

“**§396-9 Explosives.** (a) [Permits and certificates. No person shall manufacture or deal in explosives unless the person has obtained a permit therefor and no] No person shall use, store, or deal in explosives unless the person has first obtained a certificate of fitness. A certificate of fitness shall only be issued to an individual and shall set forth the individual’s competency and provide for the individual’s positive identification. Certificates of fitness may be limited as to types or kinds of explosives or to the use of explosives for specific purposes.

[(b) Manufacturer’s reports; dealer’s record and report. Manufacturers shall file a report with the director at the end of each calendar month giving in the report

the names of all purchasers and the amount and description of all explosives sold or delivered and such other information as the director may require.

(c) Storage. No person shall have, store, keep, or possess explosives, or suffer them to remain in any building or upon any premises, unless the same are in a magazine complying with rules and regulations of the department governing the classes, type of construction, and capacity of magazines, the quantities and types or kinds of explosives which may be kept in the several classes of magazines, the location of permanent magazines, the safety precautions to be taken therein, and the places where movable magazines shall be kept and the duration of such keeping.

(d) Transportation. No person shall transport or cause any explosive to be transported except in compliance with rules and regulations of the department and without first having secured a permit from the director.

(e) Sale of; permits for purchase.] (b) No dealer shall sell or deliver explosives to any person who does not hold a certificate of fitness [and a permit for the purchase thereof secured from the director or the director's authorized subordinates; and no dealer shall sell or deliver explosives except for the types or kinds and in the quantities as prescribed by, and in compliance with all the terms and conditions contained in the permit.

(f) Unlawful use or possession]. (c) It shall be unlawful for any person to use or possess any explosives unless the person has a certificate of fitness or is using the explosives under the immediate supervision and direction of a holder of the certificate. [It shall be unlawful for any person, other than a manufacturer or dealer, to have any explosives in the person's possession unless the person has a permit therefor, or unless the person has the explosives in the person's possession under the direction and for the purposes of a holder of the certificate.]

Any person who violates this section shall be subject to arrest and upon conviction, shall be fined not more than \$1,000 or imprisoned not more than one year, or both, provided that an employer or an employee acting within the scope of employment shall not be deemed to be in violation of this section.

[(g) Revocation of permits and certificates.] (d) Any [permit or] certificate of fitness issued under this section may be revoked or suspended by the director on any ground specified in the rules [and regulations promulgated] adopted under this chapter, or for any violation of this section.

[(h) National emergency.] (e) Any [permit or] certificate issued under this section [may], during any time of national emergency or crisis, may be suspended or canceled by the director[, and all explosives in the possession or control of any person may be purchased or seized and held in possession by or on the order of the governor until such time as the national emergency or crisis has passed, or until such time as the owner thereof and the government of the United States or the government of the State may agree upon some other disposition of the explosives]. A national emergency or crisis shall be deemed to exist when [such] it has been so determined under section 134-34.

[(i) Exceptions.] (f) This section shall not apply to the armed forces of the United States [or], to employees of the United States, or the state or county police or fire departments who are authorized [by the United States] to handle explosives.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

## ACT 260

S.B. NO. 2575

A Bill for an Act Relating to Corporations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that Blue Cross/Blue Shield Plans have been converting from nonprofit organizations to for-profit corporations. In the conversion process, assets of the nonprofit are usually transferred to the for-profit. Federal law requires the nonprofit organization to transfer the nonprofit's assets to another nonprofit organization if the nonprofit is no longer a qualified tax exempt corporation. These nonprofit organizations may have gained valuable assets in the community through their tax-exempt status, philanthropic actions, and public efforts. A nonprofit organization can also be considered to be subsidized by the State through tax exemptions and therefore, assets accumulated should revert back to the public if there is no longer a charitable purpose.

Another concern is the valuation of a nonprofit organization's assets. To conform to federal law, the converting nonprofit organization must transfer its assets to another nonprofit organization. The converting nonprofit organization may have a valuable piece of property and may obtain a low appraisal of the property. The converting nonprofit organization may then transfer to another nonprofit organization the cash equivalent of the appraised value of the property in lieu of transferring the property. The property is retained by the converting nonprofit corporation which then reorganizes to a for-profit corporation. The for-profit corporation later sells the property for more than the appraised value and cash transferred to the other nonprofit organization. The stockholders of the for-profit corporation have realized the difference between the cash transferred and the selling price as a gain. Usually, former directors and officers of the nonprofit organization become shareholders of the for-profit corporation.

The purpose of this Act is to provide procedures and means of ensuring that if a nonprofit organization desires to convert its assets to a for-profit entity, the public will be allowed input on the conversion, and that the assets of the nonprofit organization are reasonably valued for transfer to other nonprofit organizations.

SECTION 2. Title 24, Hawaii Revised Statutes, is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
CONVERSION OF NONPROFIT ASSETS**

**§ -1 Definitions.** As used in this chapter:

“Commissioner” means the insurance commissioner.

“Conversion” means the transfer or sale of a significant amount of a nonprofit entity's assets to a for-profit entity or through any other means as determined by the commissioner. The department of commerce and consumer affairs' business registration division shall assist the commissioner in determining whether a conversion is about to occur or has occurred. As used in this definition, “significant” means twenty per cent or more of the assets of the nonprofit entity or an amount where the for-profit entity gains control or majority ownership of total assets of the nonprofit entity.

“For-profit entity” means a corporation organized under chapter 415, including a stock insurance company.

“Nonprofit entity” means any charitable organization operating pursuant to title 26 United States Code section 501(c)(3), (4), (8), (9), (26), or (e), and whose

primary purpose is to provide health insurance coverage or any type of health benefits to its members or the public.

§ -2 **Application for conversion.** (a) A nonprofit entity shall file an application with the commissioner at least six months prior to a proposed conversion. The application shall include a report of the activities of the nonprofit entity and a plan for the conversion including the following:

- (1) A board resolution indicating that a majority of the board of directors has approved the plan for conversion;
- (2) Copies of the original and amended articles of incorporation, if any;
- (3) The nature of the public benefit or charitable activities undertaken by the nonprofit entity;
- (4) Expenditures incurred by the nonprofit entity on the public benefit or charitable activities;
- (5) A means that establishes that the conversion shall not be prejudicial to the subscribers, contract holders, or residents of this State;
- (6) A comparative premium rate analysis of the nonprofit entity's major plans and products, with the analysis comparing actual premium rates for the past three years prior to the proposed conversion and projected premium rates for three years following the proposed conversion. The analysis shall address the projected impact, if any, of the proposed conversion upon the nonprofit entity's future underwriting profit, investment income, and loss and claim reserves, including the effect, if any, of adverse market or risk selection upon the reserves; and
- (7) A valuation of all assets held by the nonprofit entity.

(b) The commissioner may request any additional information that the commissioner deems necessary to carry out this chapter.

§ -3 **Approval process.** (a) No nonprofit entity may engage in a conversion without prior approval of the application for conversion by the commissioner. Any conversion without the commissioner's approval shall be voidable by the commissioner.

(b) Prior to approval of the conversion plan, the commissioner shall determine the fair market value of the assets of the nonprofit entity and shall ensure that the assets of the nonprofit entity are transferred to another nonprofit entity at the time of conversion pursuant to section -6.

(c) After reviewing the report and plan for conversion of the nonprofit entity, if the commissioner finds any discrepancy in the valuation of the assets of the nonprofit entity, the commissioner may obtain an independent party to provide a valuation of the assets. The commissioner shall have the discretion of making a final determination of the valuation of the assets of the nonprofit entity; provided that any issues arising from valuation are brought forth during the public hearing.

(d) A public hearing shall be conducted pursuant to chapter 91 prior to approving or disapproving the conversion. Prior to approving or disapproving the conversion, the commissioner may investigate and consider any matter or issue raised at the public hearing.

(e) Within sixty days after the public hearing, the commissioner shall disapprove or approve the conversion or approve an amended conversion plan; provided that the commissioner may extend this period if the commissioner deems more time is needed to resolve any issues brought forth during the public hearing or upon mutual consent of the nonprofit entity and the commissioner.

(f) The commissioner shall approve the conversion if the commissioner finds all of the following have been met:

- (1) The conversion plan is in compliance with section -2;

- (2) The plan is fair and reasonable and not contrary to law or to the interests of subscribers, contract holders, and the residents of the State; and
- (3) Upon conversion, the for-profit corporation will meet the standards and conditions applicable to stock insurance companies, including minimum surplus requirements.
- (g) The commissioner shall issue an order approving or disapproving the conversion or approving an amended conversion plan.

§ **-4 Directors, officers of nonprofit entity; prohibition.** (a) Directors or officers of a nonprofit entity are prohibited from directly benefiting from the conversion.

(b) No officer of the nonprofit entity who is employed by the nonprofit entity at the time the conversion application is submitted, at the time of conversion, or for a one-year period after conversion shall be employed by the for-profit entity.

§ **-5 Transfer of assets to other nonprofit entities.** The commissioner shall determine prior to any conversion, the nonprofit entities, if any, that are eligible to receive assets from the converting nonprofit entity. The charitable mission and grant-making functions of each eligible nonprofit entity must:

- (1) Be dedicated to promoting or serving the health care needs of residents of the State;
- (2) Not be in direct competition with the converting nonprofit entity; and
- (3) Be in existence and have qualified for tax-exempt status under title 26 United States Code section 501(c)(3), (4), (8), (9), (26), or (e), before the transfer of assets.

§ **-6 For-profit entity; after conversion.** After conversion, the for-profit entity shall not be subject to this chapter, but if a stock insurance company, shall be in conformance with title 24.

§ **-7 Judicial review.** Any final order or action by the commissioner may be subject to judicial review by the circuit court.”

SECTION 3. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

## ACT 261

H.B. NO. 2614

A Bill for an Act Relating to Police Officers, Firefighters, and Bandsmen Pension System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88-153, Hawaii Revised Statutes, is amended to read as follows:

“§88-153 **Police officers, firefighters, and bandsmen pension system; trustees, powers.** There shall be in every county a police officers, firefighters, and bandsmen pension system which shall be governed and managed by a board of trustees. In each county the board shall consist of three members, who shall be appointed by the mayor with the approval of the county council in each instance. The

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terms of office of the trustees first taking office shall expire as designated by the appointing authority at the time of appointment, one after one year of service, one after two years of service, and one after four years of service. The terms of subsequent trustees shall be for four years and until their successors are appointed and qualified except that a person appointed to fill a vacancy caused by death, resignation, or otherwise, occurring prior to the expiration of the term, shall be appointed for the remainder of the term. The appointing authority shall designate one of the trustees as chairperson of the board in each instance. No person shall be eligible for membership or be a member of the board who occupies any elective or appointive office or position under the county government, and no member shall, during the member's term of office, serve as an officer or committee member of any political party organization, or present oneself as candidate or be a candidate for nomination or election to any public office in any primary or general election. The members of the board of trustees shall serve without pay.

The board may take by gift, grant, devise or bequest any money, choses in action, personal property, real estate, or any interest in anything of value, under the name and style of "The board of trustees of the police officers, firefighters, and bandsmen pension system" of the county in which the board shall be created, and hold the same or assign, transfer, or sell the same whenever proper or necessary under and by such name.

Any county that does not have a constituency for this pension system shall be exempt from these requirements."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

## ACT 262

H.B. NO. 2671

A Bill for an Act Relating to the Issuance of Special Purpose Revenue Bonds to Assist Utilities Serving the General Public.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds and refunding special purpose revenue bonds under this Act will assist the utilities providing electric service to the general public in obtaining lower cost bond financing for capital improvement projects, through the use of tax exempt special purpose revenue bonds and refunding bonds. This savings in cost would be reflected in the electric rates established by the public utilities commission in rate case proceedings. Ratepayers pay for the cost of financing as part of the rates set by the public utilities commission. Therefore, the savings resulting from the reduction in financing costs will benefit the ratepayers. Furthermore, these bonds cannot be secured directly or indirectly by the general credit of the counties or the revenues or taxes of the State but rather solely by the utilities. Thus, the cost of financing necessary capital improvements can be decreased with no cost or risk to the State. For the foregoing reasons, the legislature finds and declares that the issuance under this Act of special purpose revenue bonds and refunding special purpose revenue bonds is in the public interest and for the public health, safety, and general welfare of the State. The legislature further finds that Hawaiian Electric Company, Inc. and Hawaii Electric Light Company, Inc. are electric utilities serving



the general public that qualify for special purpose revenue bonds pursuant to chapter 39A, part VI, Hawaii Revised Statutes.

SECTION 2. The department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in one or more series during the period from the effective date of this Act through December 31, 2003, in a total amount not to exceed \$100,000,000 for the following capital improvement programs which are multi-project programs for the local furnishing of electric energy by electric utilities serving the general public:

<u>Company</u>	<u>Amount of Authorization</u>
Hawaiian Electric Company, Inc. (Oahu) Multi-project capital improvement program, including the acquisition of land, facilities used to produce electricity, transmission and distribution facilities, and other electric systems and facilities, or any combination thereof .....	\$75,000,000
Hawaii Electric Light Company, Inc. Multi-project capital improvement program, including the acquisition of land, facilities used to produce electricity (including two new fossil fuel generating units on the island of Hawaii), transmission and distribution facilities, and other electric systems and facilities, or any combination thereof .....	\$25,000,000

provided that, of the amount authorized in this section for Hawaiian Electric Company, Inc. (Oahu), none shall be used to fund the installation of a 138 kV line between the Kamoku Substation and the Pukele Substation; and provided that public utilities commission approval shall be required for any project financed by the issuance of special purpose revenue bonds under this Act; and provided further that, of the amount authorized in this section, none shall be used for nuclear fuel generating units.

SECTION 3. The public utilities commission shall report annually to the legislature as to the progress under this Act in reducing financing costs of electric utilities, including a comparison of the cost of the revenue bonds issued under this Act to the cost of an alternative type of taxable financing, and a listing of the projects which may be funded by the special purpose revenue bonds.

SECTION 4. The department of budget and finance is authorized to issue from time to time, including times subsequent to December 31, 2003, refunding special purpose revenue bonds in whatever principal amounts the department shall determine to be necessary to refund:

- (1) The special purpose revenue bonds issued pursuant to section 2 of this Act; and
- (2) Any refunding special purpose revenue bonds issued pursuant to this section.

The refunding special purpose revenue bonds may be issued regardless of whether the outstanding special purpose revenue bonds or refunding special purpose revenue bonds have matured or are the subject of redemption. The refunding special purpose revenue bonds shall be bonds for the multi-project programs described in section 2. In making the determination to issue refunding special purpose revenue bonds, the department of budget and finance shall comply with federal law relating to the exemption from federal income taxation of the interest on bonds of the nature authorized by this section.

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SECTION 5. The special purpose revenue bonds and the refunding special purpose revenue bonds issued under this Act shall be issued pursuant to chapter 39A, part VI, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds and refunding special purpose revenue bonds to assist utilities serving the general public in providing electric energy.

SECTION 6. The authorization in section 2 to issue special purpose revenue bonds under this Act shall lapse on December 31, 2003.

SECTION 7. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**ACT 263**

H.B. NO. 2711

A Bill for an Act Relating to the Management of Financing Agreements.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 37D-1, Hawaii Revised Statutes, is amended by amending the definition of “agency” to read as follows:

““Agency” means [the State] the judiciary, [or] any executive department, any independent commission, any board, any authority, any bureau, any office, [or] any other establishment of the State (except the legislature and its agencies [and the judiciary]), or any public corporation that is supported in whole or in part by state funds, or any agent thereof, authorized by law to expend available moneys.”

SECTION 2. Section 37D-4, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§37D-4]]~~ **Inclusion in [governor’s] budget request.** [There] For each fiscal period, there shall be included in the [governor’s] executive and judiciary budget [request] requests to the legislature, [for each fiscal period,] amounts sufficient to permit the payment of all amounts that will be due on unpaid financing agreements during that fiscal period.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**ACT 264**

H.B. NO. 2714

A Bill for an Act Relating to Uncollectible Accounts in the Judiciary.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 40-82, Hawaii Revised Statutes, is amended to read as follows:

“§40-82 **Uncollectible accounts.** (a) The directors, boards, or executive heads of executive departments may from time to time prepare and submit for the review of the attorney general a list of all uncollectible accounts in their departments. Such accounts as the attorney general finds to be uncollectible shall be entered in a special record and be deleted from the accounts receivable records of the departments,<sup>1</sup> which shall thereupon be relieved from any further accountability for their collection[,]; provided that no account shall be so deleted until it shall have been delinquent for at least two consecutive years. Any account entered in the special record shall be transferred back to the current accounts receivable if the attorney general finds that the facts as alleged and presented to the attorney general were not true, or that the account has become collectible.

[Uncollectible account as] As used in this section, “uncollectible account” means an account with regard to which [(1) the]:

- (1) The debtor or party causing damage to property belonging to the State is no longer within the jurisdiction of the State;
- (2) [the] The debtor or party causing damage to property belonging to the State cannot be located;
- (3) [the] The party causing damage to property belonging to the State is unknown or cannot be identified;
- (4) [the] The debtor has filed bankruptcy and has listed the State as a creditor; or
- (5) [such] Any other account as may be deemed by the attorney general to be uneconomical or impractical to collect.

(b) The judiciary may from time to time prepare lists of all delinquent fines and restitution, which in its judgment are uncollectible. The fines or restitution that the judiciary finds to be uncollectible shall be entered in a special record and be deleted from the other books kept by the judiciary, and the judiciary shall thereupon be released from any further accountability for their collection; provided that no account shall be so deleted until it shall have been delinquent for at least two years. Any fines or restitution so written off may be transferred back to the judiciary’s accounts receivable if the judiciary finds that the alleged facts as previously presented to it were not true, or that the fines or restitution are in fact collectible, or that the fines or restitution have become collectible. Nothing in this section shall preclude a person to whom restitution is owed from pursuing collection of the debt.

(c) The judiciary shall submit an annual report to the legislature, no later than twenty days prior to the convening of each regular session, which shall summarize the types and amounts of uncollectible delinquent fines and restitution that either were:

- (1) Entered in a special record and deleted from the judiciary’s other books; or
- (2) Transferred back to the judiciary’s accounts receivable.’’

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

#### Note

1. Comma should be underscored.

A Bill for an Act Relating to School Buses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 291C-95, Hawaii Revised Statutes, is amended to read as follows:

**“§291C-95 Overtaking and passing school bus.** (a) Whenever a school bus is stopped on a highway or road in a residential area with its visual signals actuated as described in subsection (g) [of this section actuated], the driver of any motor vehicle on the same highway or road in a residential area in the lane occupied by the school bus and [the lane immediately] all lanes adjacent to the lane occupied by the school bus, regardless of the direction of traffic in [that lane,] those lanes, shall stop the driver’s vehicle [before reaching] not less than twenty feet from the school bus and shall not proceed until the school bus resumes motion [or] and the visual signals are turned off.

(b) Subsection (a) shall not apply to a vehicle when the school bus and the vehicle are on different roadways[.]; except that where a highway or road in a residential area has been divided into two or more lanes by an intervening space, a physical barrier, or a clearly indicated dividing section, subsection (a) shall apply to all drivers of motor vehicles in all lanes on the same side as a school bus which is stopped with visual signals actuated as required under subsection (c).

(c) The driver of the school bus shall actuate the visual signals described in subsection (g) only when the school bus is stopped for the purpose of receiving or discharging school children.

(d) The front and rear of every school bus shall be marked with the words “SCHOOL BUS” in plainly visible letters not less than eight inches in height and strokes not less than three-fourths of an inch in width.

(e) No vehicle, other than a school bus, shall display a “SCHOOL BUS” sign.

(f) When a school bus is being operated upon a highway for purposes other than as an incident to the transportation of children, all marking thereon indicating “SCHOOL BUS” shall be covered or concealed.

(g) The visual signals actuated as required under subsection (c) [to be actuated] shall consist of four red signal lamps meeting the following requirements:

- (1) Two lamps shall face forward and two shall face the rear;
- (2) The two forward lamps shall flash alternately and shall be mounted at the same level, but as high and as widely spaced as practical;
- (3) The two rear lamps shall flash alternately and shall be mounted at the same level but as high and as widely spaced as practical; and
- (4) Each of the lamps shall be of sufficient intensity as to be plainly visible at a distance of five hundred feet in normal sunlight and shall be capable of being actuated from the driver’s seat by a single switch.

(h) Any person who violates this section shall be fined not more than \$500 or sentenced to perform community service, or both.”

SECTION 2. Section 291C-161, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Except as provided in subsection (c) [of this section,] every person who violates any provision of this chapter for which another penalty is not provided[,] shall be fined:

- (1) Not more than \$200 for a first conviction thereof;
- (2) Not more than \$300 for conviction of a second offense committed within one year after the date of the first offense; and
- (3) Not more than \$500 for conviction of a third or subsequent offense committed within one year after the date of the first offense;

provided that upon a conviction for a violation of section 291C-12, 291C-12.5, [or] 291C-12.6, or 291C-95, the person shall be sentenced in accordance with that section.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

## ACT 266

H.B. NO. 2750

A Bill for an Act Relating to State Bonds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Declaration of findings with respect to the general obligation bonds authorized by this Act. Pursuant to the clause in section 13 of article VII of the State Constitution which states: “Effective July 1, 1980, the legislature shall include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the total amount of principal and interest, estimated for such bonds and for all bonds authorized and unissued and calculated for all bonds issued and outstanding, will not cause the debt limit to be exceeded at the time of issuance,” the legislature finds and declares as follows:

- (1) Limitation on general obligation debt. The debt limit of the State is set forth in section 13 of article VII of the State Constitution, which states in part: “General obligation bonds may be issued by the State; provided that such bonds at the time of issuance would not cause the total amount of principal and interest payable in the current or any future fiscal year, whichever is higher, on such bonds and on all outstanding general obligation bonds to exceed: a sum equal to twenty percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance until June 30, 1982; and thereafter, a sum equal to eighteen and one-half percent of the average of the general fund revenues of the State in the three fiscal years immediately preceding such issuance.” Section 13 of article VII also provides that in determining the power of the State to issue general obligation bonds, certain bonds are excludable, including “reimbursable general obligation bonds issued for a public undertaking, improvement or system but only to the extent that reimbursements to the general fund are in fact made from the net revenue, or net user tax receipts, or combination of both, as determined for the immediately preceding fiscal year” and bonds constituting instruments of indebted-

ness under which the State incurs a contingent liability as a guarantor, but only to the extent the principal amount of such bonds does not exceed seven percent of the principal amount of outstanding general obligation bonds not otherwise excluded under said section 13 of article VII.

- (2) Actual and estimated debt limits. The limits on principal and interest of general obligation bonds issued by the State, actual for fiscal year 1997-1998 and estimated for each fiscal year from 1998-1999 to 2000-2001, are as follows:

Fiscal Year	Net General Fund Revenues	Debt Limit
1994-1995	\$2,932,879,814	
1995-1996	3,136,543,568	
1996-1997	3,115,264,737	
1997-1998	3,081,838,000	\$566,389,101
1998-1999	3,097,393,000	575,574,855
1999-2000	3,123,869,000	573,160,570
2000-2001	(Not Applicable)	573,672,667

For fiscal years 1997-1998, 1998-1999, 1999-2000, and 2000-2001, respectively, the debt limits are derived by multiplying the average of the net general fund revenues for the three preceding fiscal years by eighteen and one-half per cent. The net general fund revenues for fiscal years 1994-1995, 1995-1996, and 1996-1997 are actual, as certified by the director of finance in the Statement of the Debt Limit of the State of Hawaii as of July 1, 1997, dated November 26, 1997. The net general fund revenues for fiscal years 1997-1998 to 1999-2000 are estimates, based on general fund revenue estimates made March 10, 1998, by the council on revenues, the body assigned by section 7 of article VII of the State Constitution to make such estimates, and based on estimates made by the department of budget and finance of those receipts which cannot be included as general fund revenues for the purpose of calculating the debt limit, all of which estimates the legislature finds to be reasonable.

- (3) Principal and interest on outstanding bonds applicable to the debt limit. (A) According to the department of budget and finance, the total amount of principal and interest on outstanding general obligation bonds, after the exclusions permitted by section 13 of article VII of the State Constitution, for determining the power of the State to issue general obligation bonds within the debt limit as of April 1, 1998 is as follows for fiscal year 1998-1999 to fiscal year 2004-2005:

Fiscal Year	Principal and Interest
1998-1999	\$344,173,243
1999-2000	\$336,848,486
2000-2001	\$335,404,470
2001-2002	\$350,902,266
2002-2003	\$394,565,388
2003-2004	\$350,375,491
2004-2005	\$345,284,497

The department of budget and finance further reports that the amount of principal and interest on outstanding bonds applicable to the debt limit generally continues to decline each year from fiscal year 2005-2006 to fiscal year 2017-2018 when the final installment of \$44,962,638 shall be due and payable. (B) The department of budget and finance further reports that the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is \$181,000,000, all or part of which is excludable in determining the power of the State to issue general obligation bonds, pursuant to section 13 of article VII of the State Constitution.

- (4) Amount of authorized and unissued general obligation bonds and guaranties and proposed bonds and guaranties. (A) As calculated from the state comptroller's bond fund report as of March 31, 1998, adjusted for:
- (i) Appropriations to be funded with general obligation bonds and reimbursable general obligation bonds as provided in Act 328, Session Laws of Hawaii 1997 (the General Appropriations Act of 1997), to be expended in fiscal year 1998-1999;
  - (ii) Appropriations to be funded by reimbursable general obligation bonds as provided in Act 222, Session Laws of Hawaii 1997 (Relating to Hawaii Hurricane Relief Fund Bonds) to be expended in fiscal year 1998-1999;
  - (iii) Appropriations to be funded by general obligation bonds as provided in Act 155, Session Laws of Hawaii 1997, (the Judiciary Appropriations Act of 1997);
  - (iv) The issuance of \$300,000,000 in general obligation bonds of 1998, Series CR;
  - (v) Appropriations to be funded by reimbursable general obligation bonds as provided in House Bill No. 2990, H.D. 2, S.D. 2,<sup>1</sup> (Relating to Agriculture), in the amount of \$9,700,000;
  - (vi) Lapses proposed in House Bill No. 2500, H.D. 1, S.D. 1, C.D. 1,<sup>2</sup> (the Supplemental Appropriations Act of 1998) in the amount of \$94,350,482; and
  - (vii) Lapses proposed in House Bill No. 2710, H.D. 1, S.D. 1, C.D. 1,<sup>3</sup> (the Judiciary Supplemental Appropriations Act of 1998) in the amount of \$603,000; the total amount of authorized but unissued general obligation bonds and reimbursable general obligation bonds is \$1,182,810,140. The total amount of general obligation bonds previously authorized and unissued and the general obligation bonds authorized in this Act is \$117,111,931. The total amount of general obligation bonds and reimbursable general obligation bonds previously authorized and unissued and the general obligation bonds authorized in this Act is \$1,299,922,071.

(B) As reported by the department of budget and finance, the outstanding principal amount of bonds constituting instruments of indebtedness under which the State may incur a contingent liability as a guarantor is \$181,000,000, all or part of which is excludable in determining the power of the State to issue general obligation bonds, pursuant to section 13 of article VII of the State Constitution. The total amount of guaranty authorized by House Bill No. 1699, H.D. 2, S.D. 1,<sup>4</sup> (Relating to the Hawaii Capital Loan Program) is \$10,000,000, and is herein validated. The total amount of guaranties previously authorized and the guaranties validated by this Act is \$191,000,000.

- (5) Proposed general obligation bond issuance. As reported in the budget for fiscal years 1997-1998, 1998-1999, 1999-2000, and 2000-2001, the State proposes to issue \$200,000,000 during the remainder of fiscal year 1997-1998, \$400,000,000 during the first half of fiscal year 1998-1999, \$300,000,000 during the second half of fiscal year 1998-1999, and \$100,000,000 semiannually in each of fiscal years 1999-2000 and 2000-2001. It has been the practice of the State to issue twenty-year serial bonds with principal repayments beginning the third year, and interest payments commencing six months from the date of issuance and being paid semiannually thereafter. As reported by the department of budget and finance, the bonds will be maturing in substantially equal annual installments of principal and interest. It is assumed that this practice will be applied to the bonds which are proposed to be issued.
- (6) Sufficiency of proposed general obligation bond issuance to meet the requirements of authorized and unissued bonds, as adjusted, and bonds authorized by this Act. From the schedule reported in paragraph (5), the total amount of general obligation bonds which the State proposes to issue during fiscal years 1997-1998 to 1999-2000 is \$1,100,000,000. An additional \$200,000,000 is proposed to be issued in fiscal year 2000-2001. The total amount of \$1,100,000,000 which is proposed to be issued through fiscal year 1999-2000 is sufficient to meet the requirements of the authorized and unissued bonds, as adjusted, and the bonds authorized by this Act, the total amount of which is \$1,299,922,071, as reported in paragraph (4), except for \$199,922,071. It is assumed that the appropriations to which an additional \$199,922,071 in bond issuance needs to be applied will have been encumbered as of June 30, 2000. The \$200,000,000 which is proposed to be issued in fiscal year 2000-2001 will be sufficient to meet the requirements of the June 30, 2000 encumbrances in the amount of \$199,922,071. The amount of assumed encumbrances as of June 30, 2000 is reasonable and conservative, based upon an inspection of June 30 encumbrances of the general obligation bond fund as reported by the state comptroller. Thus, taking into account the amount of previously authorized and unissued bonds and bonds proposed in this Act versus the amount of bonds which is proposed to be issued by June 30, 2000, and the amount of June 30, 2000 encumbrances versus the amount of bonds which is proposed to be issued in fiscal year 2000-2001, the legislature finds that in the aggregate, the amount of bonds is sufficient to meet these requirements.
- (7) Bonds excludable in determining the power of the State to issue bonds. As noted in paragraph (1), certain bonds are excludable in determining the power of the State to issue general obligation bonds. (A) General obligation reimbursable bonds can be excluded under certain conditions. It is not possible to make a conclusive determination as to the amount of reimbursable bonds which are excludable from the amount of each proposed bond issued because:
- (i) It is not known exactly when projects for which reimbursable bonds have been authorized in prior acts and in this Act will be implemented and will require the application of proceeds from a particular bond issue; and
  - (ii) Not all reimbursable general obligation bonds may qualify for exclusion.

However, the legislature notes that with respect to the principal and interest on outstanding general obligation bonds, according to the



department of budget and finance, the average proportion of principal and interest which is excludable each year from calculation against the debt limit is 7.03 percent for the ten years from fiscal year 1998-1999 to fiscal year 2007-2008. For the purpose of this declaration, the assumption is made that five percent of each bond issue will be excludable from the debt limit, an assumption which the legislature finds to be reasonable and conservative. (B) Bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor can be excluded but only to the extent the principal amount of such guaranties does not exceed seven percent of the principal amount of outstanding general obligation bonds not otherwise excluded under subparagraph (A) of paragraph (7) and provided that the State shall establish and maintain a reserve in an amount in reasonable proportion to the outstanding loans guaranteed by the State as provided by law. According to the department of budget and finance and the assumptions presented herein, the total principal amount of outstanding general obligation bonds and general obligation bonds proposed to be issued, which are not otherwise excluded under section 13 of article VII of the State Constitution for fiscal years 1997-1998, 1998-1999, 1999-2000, and 2000-2001 are as follows:

<u>Fiscal Year</u>	<u>Total amount of General Obligation Bonds not otherwise excluded by section 13 of article VII of the State Constitution</u>
1997-1998	\$3,360,473,997
1998-1999	\$3,848,824,276
1999-2000	\$3,850,967,163
2000-2001	\$3,830,302,703

Based on the foregoing and based on the assumption that the full amount of a guaranty is immediately due and payable when such guaranty changes from a contingent liability to an actual liability, the aggregate principal amount of the portion of the outstanding guaranties and the guaranties proposed to be incurred, which does not exceed seven percent of the average amount set forth in the last column of the above table and for which reserve funds have been or will have been established as heretofore provided, can be excluded in determining the power of the State to issue general obligation bonds. As it is not possible to predict with a reasonable degree of certainty when a guaranty will change from a contingent liability to an actual liability, it is assumed in conformity with fiscal conservatism and prudence, that all guaranties not otherwise excluded pursuant to section 13 of article VII of the State Constitution will become due and payable in the same fiscal year in which the greatest amount of principal and interest on general obligation bonds, after exclusions, occurs. Thus, based on these assumptions and on the determination in paragraph (8), the aggregate amount of the portion of the outstanding guaranties, which must be included in determining the power of the State to issue general obligation bonds, is \$0.

- (8) Determination whether the debt limit will be exceeded at the time of issuance. From the foregoing and on the assumption that all of the bonds identified in paragraph (5) will be issued at an interest rate of 6.5 percent, it can be determined from the following schedule that the bonds which are proposed to be issued, which include all authorized and unissued bonds previously authorized, as adjusted, general obligation bonds and instruments of indebtedness under which the State incurs a contingent liability as a guarantor authorized in this Act, will not cause the debt limit to be exceeded at the time of such issuance:

<u>Time of Issuance and Amount to be Counted Against Debt Limit</u>	<u>Debt Limit at Time of Issuance</u>	<u>Greatest Amount and Year of Highest Principal and Interest on Bonds and Guaranties</u>
Remainder FY 1997-1998		
\$190,000,000	\$566,389,101	\$412,776,638 (2002-2003)
1st half FY 1998-1999		
\$380,000,000	\$575,574,855	\$448,770,738 (2002-2003)
2nd half FY 1998-1999		
\$285,000,000	\$575,574,855	\$476,090,013 (2002-2003)
1st half FY 1999-2000		
\$95,000,000	\$573,160,570	\$485,093,163 (2002-2003)
2nd half FY 1999-2000		
\$95,000,000	\$573,160,570	\$494,197,713 (2002-2003)
1st half FY 2000-2001		
\$95,000,000	\$573,672,667	\$503,207,488 (2002-2003)
2nd half FY 2000-2001		
\$95,000,000	\$573,672,667	\$512,312,488 (2002-2003)

- (9) Overall and concluding finding. From the facts, estimates, and assumptions stated in this declaration of findings, the conclusion is reached that the total amount of principal and interest estimated for the general obligation bonds authorized in this Act, and for all bonds authorized and unissued, and calculated for all bonds issued and outstanding, and all guaranties, will not cause the debt limit to be exceeded at the time of issuance.

SECTION 2. The legislature finds the bases for the declaration of findings set forth in this Act reasonable. The assumptions set forth in this Act with respect to the principal amount of general obligation bonds which will be issued, the amount of principal and interest on reimbursable general obligation bonds which are assumed to be excludable, and the assumed maturity structure shall not be deemed to be binding, it being the understanding of the legislature that such matters must remain subject to substantial flexibility.

SECTION 3. Authorization for issuance of general obligation bonds. General obligation bonds may be issued as provided by law in an amount that may be necessary to finance projects authorized in House Bill No. 2500, H.D. 1, S.D. 1, C.D. 1<sup>2</sup> (the Supplemental Appropriations Act of 1998), and House Bill No. 2710, H.D. 1, S.D. 1, C.D. 1<sup>3</sup> (the Judiciary Supplemental Appropriations Act of 1998), passed by this regular session of 1998, and designated to be financed from the general obligation bond fund and from the general obligation bond fund with debt service cost to be paid from special funds; provided that the sum total of the general obligation bonds so issued shall not exceed \$117,111,931.

Any law to the contrary notwithstanding, general obligation bonds may be issued from time to time in accordance with section 39-16, Hawaii Revised Statutes, in such principal amount as may be required to refund any general obligation bonds of the State of Hawaii heretofore or hereafter issued pursuant to law.

SECTION 4. The provisions of this Act are declared to be severable and if any portion thereof is held to be invalid for any reason, the validity of the remainder of this Act shall not be affected.

SECTION 5. In printing this Act, the revisor of statutes shall substitute in section 1 and section 3 the corresponding act numbers for bills identified therein.

SECTION 6. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

#### Notes

1. Act 111.
2. Act 116.
3. Act 126.
4. Act 104.

## ACT 267

H.B. NO. 2758

A Bill for an Act Relating to Procurement.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 103F-106, Hawaii Revised Statutes, is amended to read as follows:

“**[[§103F-106]] Authority of the procurement policy board.** The policy board established under section 103D-201 shall adopt all rules necessary to implement this chapter. All rules shall be adopted in accordance with chapter 91. The policy board shall consider and decide matters of policy within the scope of this chapter including those referred to it by chief procurement officers. The policy board may audit and monitor implementation of its rules and the requirements of this chapter, but shall not exercise authority over the award or administration of any particular contract, or over any dispute or claim arising from a contract.”

SECTION 2. Notwithstanding section 103F-106, Hawaii Revised Statutes, the policy board may issue interim rules by procurement directives exempt from the requirements of chapter 91; provided that the interim rules shall remain in effect no longer than June 30, 1999.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 1998.

(Approved July 20, 1998.)

A Bill for an Act Relating to Pooled Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to allow pooled insurance for specific public works construction projects, or any other construction project in the public interest which is publicly financed in whole or in part, may have multiple sites, or entails ongoing construction in phases as long as the construction is for a specific nature or purpose and its total construction cost is estimated to be \$50,000,000 or more.

SECTION 2. Section 431:10-222.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§431:10-222.5]]~~ **Pooled insurance.** (a) Insurers may offer pooled insurance which allows liability insurance and all other types of insurance required by law, not including prepaid health insurance, to be obtained for a construction project. Pooled insurance may be purchased by:

- (1) The State and its public instrumentalities for specific public works construction projects, or any other construction project in the public interest which is publicly financed in whole or in part; or
- (2) A private person or legal entity subject to the State’s tax laws for a specific construction project.

Pooled insurance shall be limited to those construction projects that are estimated to cost \$50,000,000 or more for the total construction project.

(b) For purposes of this section, “pooled insurance” means an insurance policy or policies from licensed private insurers which cover the liability of all developers, contractors, and subcontractors, for their performance directly related to the project. The insurance policy or policies shall cover only a specific public works or private construction project and shall be in effect for the limited period of time required to complete construction of that project; provided that the policy or policies shall cover claims in accordance with the terms of the policy or policies and within the applicable statute of limitations for those claims.

(c) The State, its public instrumentalities, or a private person or entity may obtain a pooled insurance policy or policies and seek contributions or reimbursements of premiums from any contractor or subcontractor who is included as a named insured. In the alternative to the preceding, the State, its instrumentalities, or a private person or entity may arrange a premium payment guarantee from any contractor or subcontractor included as a named insured.

(d) As used in this section, “contractors” and “subcontractors” do not include architects and engineers.

(e) Nothing in this section shall be construed to alter or nullify the liability of any party to the State for claims arising from a public works construction project.

(f) In cases of conflict with section 386-124, this section shall control.

(g) For purposes of this section, the phrases “specific construction project”, “specific public works construction projects, or any other construction project in the public interest”, and “total construction project” shall include those projects that may have multiple sites, and projects that involve ongoing construction in phases.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

## ACT 269

H.B. NO. 2776

A Bill for an Act Relating to Restitution.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 706, Hawaii Revised Statutes, is amended by adding to part III two new sections to be appropriately designated and to read as follows:

**“§706- Victim restitution.** (1) As used in this section, “victim” includes any of the following:

- (a) The direct victim of a crime including a business entity, trust, or governmental entity;
- (b) If the victim dies as a result of the crime, a surviving relative of the victim as defined in chapter 351; or
- (c) A governmental entity which has reimbursed the victim for losses arising as a result of the crime.

(2) The court may order the defendant to make restitution for losses suffered by the victim or victims as a result of the defendant’s offense. The court may order restitution to be paid to the criminal injuries compensation commission in the event that the victim has been given an award for compensation under chapter 351.

(3) Restitution shall be a dollar amount that is sufficient to reimburse any victim fully for losses including but not limited to:

- (a) Full value of stolen or damaged property, as determined by replacement costs of like property, or the actual or estimated cost of repair, if repair is possible;
- (b) Medical expenses; and
- (c) Funeral and burial expenses incurred as a result of the crime.

(4) The restitution ordered shall not affect the right of a victim to recover under section 351-33 or in any manner provided by law; provided that any amount of restitution actually recovered by the victim under this section shall be deducted from any award under section 351-33.

**§706- Civil enforcement.** (1) A certified or exemplified copy of an order of any court of this State for payment of a fine or restitution pursuant to section 706-605 may be filed in the office of the clerk of an appropriate court of this State as a special proceeding. The order, whether as an independent order, as part of a judgment and sentence, or as a condition of probation or deferred plea, shall be enforceable in the same manner as a civil judgment.

(2) In the event the victim has received or applied for reimbursement from any governmental entity, the victim named in the order or the victim’s attorney shall also mail notice of the filing to the governmental entity providing reimbursement and shall file proof of mailing with the clerk.

(3) Fees for docketing, transcription, or other enforcement proceedings shall be as provided by law for judgments of a court of this State.”

SECTION 2. Section 657-23, Hawaii Revised Statutes, is amended to read as follows:

“[[§657-23]] Extension while criminal case is pending. If at any time when any cause of action for recovery of restitution or compensation for damage or injury to [the person of a child] a victim of a crime exists, a criminal action is pending which arises out of the same occurrence [and in which the child is the victim], the time during which the criminal action is pending shall not be deemed or taken as any part of the time limited for the commencement of the civil action.

As used in this section, a criminal action is pending until [its final adjudication in the trial court.] the court’s jurisdiction in the criminal action is terminated.”

SECTION 3. Chapter 706, Hawaii Revised Statutes, is amended by amending the title of part III to read as follows:

**‘PART III. FINES AND RESTITUTION’**

SECTION 4. Section 706-605, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) Except as provided in parts II and IV of this chapter or in section 706- and subsection (2) of this section and subject to the applicable provisions of this Code, the court may sentence a convicted defendant to one or more of the following dispositions:

- (a) To be placed on probation as authorized by part II of this chapter;
- (b) To pay a fine as authorized by part III and section 706-624 of this chapter;
- (c) To be imprisoned for a term as authorized by part IV of this chapter;
- (d) To make restitution in an amount the defendant can afford to pay; provided that the court may order any restitution to be paid to victims pursuant to section 706- or to the criminal injuries compensation commission in the event that the victim has been given an award for compensation under chapter 351 and, if the court orders, in addition to restitution, payment of fine in accordance with paragraph (b), the payment of restitution shall have priority over the payment of the fine; or
- (e) To perform services for the community under the supervision of a governmental agency or benevolent or charitable organization or other community service group or appropriate supervisor[,]; provided that the convicted person who performs such services shall not be deemed to be an employee of the governmental agency or assigned work site for any purpose. All persons sentenced to perform community service shall be screened and assessed for appropriate placement by a governmental agency coordinating public service work placement as a condition of sentence.”

SECTION 5. Section 706-630, Hawaii Revised Statutes, is amended to read as follows:

“**§706-630 Discharge of defendant.** Upon the termination of the period of the<sup>1</sup> probation or the earlier discharge of the defendant, the defendant shall be relieved of any obligations imposed by the order of the court and shall have satisfied the disposition of the court[.], except as to any action under this chapter to collect unpaid fines, restitution, attorney’s fees, costs, or interest.”

SECTION 6. Section 706-644, Hawaii Revised Statutes, is amended to read as follows:

**“§706-644 Consequences of nonpayment; imprisonment for contumacious nonpayment; summary collection.** (1) When a defendant is sentenced pursuant to section 706-605, granted a conditional discharge pursuant to section 712-1255, or granted a deferred plea pursuant to chapter 853, and the defendant is ordered to pay<sup>2</sup> a fine or restitution, whether as an independent order, as part of a judgment and sentence, or as a condition of probation or deferred plea, and the defendant defaults in the payment thereof or of any installment, the court, upon the motion of the prosecuting attorney or upon its own motion, may require the defendant to show cause why the defendant’s default should not be treated as contumacious and may issue a summons or a warrant of arrest for the defendant’s appearance. Unless the defendant shows that the defendant’s default was not attributable to an intentional refusal to obey the order of the court, or to a failure on the defendant’s part to make a good faith effort to obtain the funds required for the payment, the court shall find that the defendant’s default was contumacious and may order the defendant committed until the fine, restitution, or a specified part thereof is paid.

(2) When a fine or restitution is imposed on a corporation or unincorporated association, it is the duty of the person or persons authorized to make disbursement from the assets of the corporation or association to pay it from those assets, and their failure to do so<sup>3</sup> may be held contumacious unless they make the showing required in subsection (1).

(3) The term of imprisonment for nonpayment of fine or restitution shall be specified in the order of commitment, and shall not exceed one day for each \$25 of the fine, thirty days if the fine was imposed upon conviction of a violation or a petty misdemeanor, or one year in any other case, whichever is the shorter period. A person committed for nonpayment of a fine [or restitution] shall be given credit toward payment of the fine for each day of imprisonment, at the rate of \$25 per day.

(4) If it appears that the defendant’s default in the payment of a fine or restitution is not contumacious, the court may make an order allowing the defendant additional time for payment, reducing the amount [thereof or] of each installment, or revoking the fine [or restitution] or the unpaid portion thereof in whole or in part[.], or converting the unpaid portion of the fine to community service. A defendant shall not be discharged from an order to pay restitution until the full amount of the restitution has actually been collected or accounted for.

[(5) The levy of execution for the collection of a fine or restitution shall not discharge a defendant committed to imprisonment for nonpayment of the fine<sup>4</sup> or restitution until the amount of the fine has actually been collected or accounted for under subsection (3).

(6) [(5) Unless discharged by payment or, in the case of a fine, service of imprisonment [in default of a fine, a fine] pursuant to subsection (3), an order to pay a fine or restitution, whether as an independent order, as a part of a judgment and sentence, or as a condition of probation or deferred plea pursuant to chapter 853, may be collected in the same manner as a judgment in a civil action. The State or the victim named in the order may collect the restitution, including costs, interest, and attorney’s fees, pursuant to section 706-\_\_\_\_. The State may collect the fine, including costs, interest, and attorney’s fees pursuant to section 706-\_\_\_\_.

[(7) Costs may be collected in the same manner as a judgment in a civil action, but] (6) Attorney’s fees, costs, and interest shall not be deemed part of the penalty, and no person shall be imprisoned under this section in default of payment of [costs.] attorney’s fees, costs, and interest.<sup>1</sup>

## ACT 270

[ (8) The state attorney general may institute proceedings to collect the fine, and costs, including interest and attorney's fees, as a civil judgment in the court of appropriate jurisdiction.]”

SECTION 7. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>5</sup>

SECTION 9. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

### Notes

1. Should be underscored.
2. “Pay” should not be underscored.
3. Prior to amendment “so to do” appeared here.
4. Prior to amendment “or restitution” appeared here.
5. Edited pursuant to HRS §23G-16.5.

## ACT 270

H.B. NO. 2779

A Bill for an Act Relating to the Uniform Interstate Family Support Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 576B-207, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) If two or more child support orders have been issued for the same obligor and child and if the obligor or the individual obligee resides in this State, a party may request a tribunal of this State to determine which order controls and must be so recognized under subsection (b). The request must be accompanied by a certified copy of every support order in effect. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

For the purposes of this subsection, service of the notice shall be by personal service or certified mail, return receipt requested. After initial service is effected, additional service upon a party shall be satisfied by regular mail to the party's last known address. In any child support enforcement proceedings subsequent to an order, upon a showing that diligent effort has been made to ascertain the location of a party, notice of service of process shall be presumed to be satisfied upon delivery of written notice to the most recent residential or employer address on file with the state case registry.”

SECTION 2. Section 576B-605, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§576B-605]]~~ **Notice of registration of order.** (a) When a support order or income withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) The notice must inform the nonregistering party:



- (1) That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this State;
- (2) That a hearing to contest the validity or enforcement of the registered order must be requested within twenty days after [the date of mailing or personal service of the] notice;
- (3) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and
- (4) Of the amount of any alleged arrearages.

(c) Upon registration of an income withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to sections 571-52, 571-52.2, 571-52.3, and 576E-16.

(d) For the purposes of this section, service of the notice shall be by personal service or certified mail, return receipt requested. After initial service is effected, additional service upon a party shall be satisfied by regular mail to the party's last known address. In any child support enforcement proceedings subsequent to an order, upon a showing that diligent effort has been made to ascertain the location of a party, notice of service of process shall be presumed to be satisfied upon delivery of written notice to the most recent residential or employer address on file with the state case registry."

SECTION 3. Section 576B-606, Hawaii Revised Statutes, is amended to read as follows:

**“[§576B-606] Procedure to contest validity or enforcement of registered order.** (a) A nonregistering party seeking to contest the validity or enforcement of a registered order in this State shall request a hearing within twenty days after [the date of mailing or personal service of] notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to section 576B-607.

(b) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(c) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

(d) For the purposes of this section, service of the notice shall be by personal service or certified mail, return receipt requested. After initial service is effected, additional service upon a party shall be satisfied by regular mail to the party's last known address. In any child support enforcement proceedings subsequent to an order, upon a showing that diligent effort has been made to ascertain the location of a party, notice of service of process shall be presumed to be satisfied upon delivery of written notice to the most recent residential or employer address on file with the state case registry."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

A Bill for an Act Relating to Mental and Medical Examination of Convicted Defendants.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 706-603, Hawaii Revised Statutes, is amended to read as follows:

**“§706-603 [Pre-sentence mental] Mental and medical examination[.]; deoxyribonucleic acid collection. (1) As used in this section, unless the context otherwise requires:**

“Conviction” means that a verdict has been rendered by a judge or jury, or a plea of guilty or nolo contendere has been accepted by the court.

“DNA” means deoxyribonucleic acid.

“Licensed psychologist” means psychologists licensed under chapter 465 but also includes psychologists exempt from licensure under section 465-3(a)(3).

“Sexual offense” means an offense as defined in chapter 846E as a sexually violent offense or a criminal offense against a victim who is a minor.

“Violent offense” means murder, or attempted murder, in any degree.

[(a)] (2) Before imposing sentence, the court may order a defendant who has been convicted of a felony or misdemeanor to submit to mental or other medical observation and examination for a period not exceeding sixty days or a longer period, not to exceed the length of permissible imprisonment, as the court determines to be necessary for the purpose. In addition thereto or in the alternative, the court may appoint one or more qualified psychiatrists, physicians, or licensed psychologists to make the examination. The [three] examiner or examiners shall be appointed from a list of certified [sanity] examiners as determined by the state department of health. The report of the examination shall be submitted to the court. [As used in this section, the term “licensed psychologist” includes psychologists exempted from licensure by section 465-3(a)(3).]

[(b)] (3) After entry of a plea of guilty or no contest or return of a verdict of guilty, [the court shall order] a defendant who has been convicted of [an offense, including attempts, under section 707-701, 707-701.5, 707-730, 707-731, 707-732, 707-733, 707-741, or 707-750 to provide a sample of saliva and] a sexual or violent offense shall provide two samples of blood for [the purpose of secretor status, blood type, and] DNA analysis. [Blood shall be withdrawn only by a person authorized to withdraw blood under section 286-152. The arresting agency shall arrange for the sample to be collected and analyzed. The results shall be recorded, preserved, and disseminated in a manner established by the Hawaii criminal justice data center in a manner consistent with the requirements of chapter 846.]

(c) For the purposes of this section, the defendant may be remanded to any available clinic or hospital, intake service center, community correctional center, or state or county health department facility.]

(4) A defendant who has been convicted of a sexual or violent offense and who is in custody at a jail, prison, hospital, school, or other institution shall provide two samples of blood for DNA analysis. The person in charge of such an institution, or that person’s designee, shall arrange for the sample to be collected and analyzed.

(5) A defendant who has been convicted of a sexual or violent offense and who is not in custody shall report in person to any police station in the county in which the defendant resides or is present to schedule an appointment to provide two samples of blood for DNA analysis. A defendant required to report to a police station under this subsection shall do so within:

- (a) Thirty days of the effective date of this subsection;
- (b) Thirty days of conviction; or
- (c) Thirty days after arrival in this State, if the defendant expects to be present in this State for a period exceeding thirty days.

(6) A defendant who has been charged with a sexual or violent offense and who has been found unfit to proceed or acquitted pursuant to chapter 704, or any state, federal, or military law similar to chapter 704 shall provide two samples of blood for DNA analysis. The person in charge of the jail, prison, hospital, school, or other institution where the defendant is in custody, or that person's designee, shall arrange for the sample to be collected and analyzed. A defendant who is not in custody and who is required to provide blood under this subsection shall report in person to any police station in the county in which the defendant resides or is present to schedule an appointment to provide two samples of blood. A defendant required to report to a police station under this subsection shall do so within:

- (a) Thirty days of the effective date of this subsection;
- (b) Thirty days of the release following an acquittal or finding of unfitness to proceed under chapter 704; or any state, federal, or military law similar to chapter 704; or
- (c) Thirty days after arrival in the State,

if the defendant resides or expects to be present in the State for a period exceeding thirty days.

(7) Blood withdrawn pursuant to this section shall be withdrawn only by a person authorized to withdraw blood under section 286-152. The results shall be recorded, preserved, and disseminated in a manner consistent with the requirements of chapter 846. A defendant who has already provided the necessary samples of blood pursuant to this section shall be relieved of any further requirement to provide blood for DNA analysis, unless the court orders otherwise.

(8) In addition to any disposition authorized by chapter 706 or 853, a defendant convicted of a sexual or violent offense after the effective date of this subsection may be ordered to pay a monetary assessment of \$500 or the actual cost of the DNA analysis, whichever is less. The court shall not order the defendant to pay the monetary assessment unless the defendant is or will be able to pay the monetary assessment. Notwithstanding any other law to the contrary, the assessment provided by this section shall be in addition to, and not in lieu of, and shall not be used to offset or reduce, any fine authorized or required by law. All assessments shall be paid into the DNA registry special fund established in subsection (9).

(9) There is established a special fund to be known as the DNA registry special fund which shall be administered by the attorney general. The fund shall consist of:

- (a) All assessments ordered pursuant to subsection (8);
- (b) All other moneys received by the fund from any other source; and
- (c) Interest earned on any moneys in the fund.

Moneys in the DNA registry special fund shall be used for DNA collection, DNA testing, and related costs of recording, preserving, and disseminating DNA information pursuant to this section.

(10) Restitution to the victim of a sexual or violent crime shall be made before payment of the monetary assessment.

(11) Any person required to provide blood samples under this section who negligently or recklessly fails to comply shall be guilty of a misdemeanor; and any person who intentionally or knowingly fails to provide blood samples under this section shall be guilty of a class C felony."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

ACT 272

H.B. NO. 2793

A Bill for an Act Relating to the Housing and Community Development Corporation of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 201G-127, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The following restrictions shall apply to the transfer of real property developed and sold under this chapter, whether in fee simple or leasehold:

- (1) For a period of three years after the purchase, whether by lease, assignment of lease, deed, or agreement of sale, if the purchaser wishes to transfer title to the real property, the corporation shall have the first option to purchase the real property at a price that shall not exceed the sum of:
  - (A) The original cost to the purchaser, as defined in rules adopted by the corporation;
  - (B) The cost of any improvements added by the purchaser, as defined in rules adopted by the corporation; and
  - (C) Simple interest on the original cost and capital improvements to the purchaser at the rate of one per cent a year.
- (2) The corporation may purchase the real property either:
  - (A) By conveyance free and clear of all mortgages and liens; or
  - (B) By conveyance subject to existing mortgages and liens.

If the real property is conveyed in the manner provided in subparagraph (A), it shall be conveyed to the corporation only after all mortgages and liens are released. If the real property is conveyed in the manner provided in subparagraph (B), the corporation shall acquire the property subject to any first mortgage created for the purpose of securing the payment of a loan of funds expended solely for the purchase of the real property by the seller; and any mortgage or lien created for any other purpose provided that the corporation has previously consented to it in writing.

The corporation’s interest created by this subsection shall constitute a statutory lien on the real property and shall be superior to any other mortgage or lien except for:

- (i) Any first mortgage created for the purpose of securing the payment of a loan of funds expended solely for the purchase of the real property by the seller;
- (ii) Any mortgage insured or held by a federal housing agency; and
- (iii) Any mortgage or lien created for any other purpose, provided that the corporation has previously consented to it in writing.

The amount paid by the corporation to the seller shall be the difference, if any, between the purchase price determined by paragraph (1)(A) to (C), and the total of the outstanding principal balances of the mortgages and liens assumed by the corporation.

- (3) A purchaser may refinance real property developed and sold under this chapter provided that the purchaser shall not refinance the real property, within [ten] three years from the date of purchase, for an amount in excess of the purchase price as determined by paragraph (1)(A) to (C).
- (4) After the end of the third year from the date of purchase, or execution of an agreement of sale, the purchaser may sell the real property and sell or assign the property free from any price restrictions; provided that the purchaser shall be required to pay to the corporation the sum of:
  - (A) The balance of any mortgage note, agreement of sale, or other amount owing to the corporation;
  - (B) Any subsidy or deferred sales price made by the corporation in the acquisition, development, construction, and sale of the real property, and any other amount expended by the corporation not counted as cost under section 201G-125 but charged to the real property by good accounting practice as determined by the corporation whose books shall be prima facie evidence of the correctness of the costs;
  - (C) Interest on the subsidy or deferred sales price, if applicable, and any other amount expended at the rate of seven per cent a year computed as to the subsidy or deferred sales price, if applicable, from the date of purchase, or execution of the agreement of sale, and as to any amount expended, from the date of expenditure; provided that the computed interest shall not extend beyond thirty years from the date of purchase, or execution of the agreement of sale, of the real property; and provided further that if any proposed sale or transfer will not generate an amount sufficient to pay the corporation the sum as computed under this paragraph, the corporation shall have the first option to purchase the real property at a price which shall not exceed the sum as computed under paragraphs (1) and (2); and
  - (D) The corporation's share of appreciation in the real property as determined under rules adopted pursuant to chapter 91 when applicable; and
- (5) Notwithstanding any provision above to the contrary, pursuant to rules adopted by the corporation, the subsidy or deferred sales price described in paragraph (4)(B) and any interest accrued pursuant to paragraph (4)(C) may be paid, in part or in full, at any time."

SECTION 2. Section 201G-129, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Real property purchased under this chapter shall be occupied by the purchaser at all times during the [ten-year] three-year restriction period set forth in section 201G-127, except in hardship circumstances where the inability to reside on the property arises out of unforeseeable job or military transfer, a temporary educational sabbatical, serious illness of the person, or in other hardship circumstances as determined by the corporation on a case-by-case basis.

The corporation may waive the owner-occupancy requirement for a total of not more than ten years after the purchase of the dwelling, during which time the dwelling unit may be rented or leased. Waivers may be granted only to qualified residents who have paid resident state income taxes during all years in which they occupied the dwelling, who continue to pay resident state income taxes during the waiver period, and whose inability to reside on the property does not stem from a

natural disaster. The [ten-year] owner-occupancy requirement shall be extended by one month for every month or fraction thereof that the owner-occupancy requirement is waived.

The corporation shall adopt rules under chapter 91 to implement the letter and spirit of this subsection and to prescribe necessary terms and conditions. The rules shall include:

- (1) Application and approval procedures for the waivers;
- (2) Exceptions authorized by this subsection;
- (3) The amounts of rents that may be charged by persons allowed to rent or lease a dwelling unit; and
- (4) Schedules of fees needed to cover administrative expenses and attorneys' fees.

No qualified resident who fails to reoccupy a dwelling unit after any waiver period shall receive more than the maximum to which the person would be entitled under section 201G-127. Any person who disagrees with the corporation's determination under this section shall be entitled to a contested case proceeding under chapter 91."

SECTION 3. Act 299, Session Laws of Hawaii 1997, is amended by amending section 4 to read as follows:

"SECTION 4. This Act shall take effect upon its approval [and shall be repealed on December 31, 2000]."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 1998; provided that on December 31, 2000, the amendments in sections 1 and 2 of this Act shall be repealed and sections 201G-127(a) and 201G-129(a), Hawaii Revised Statutes, are reenacted in the form in which they were enacted by Act 350, Session Laws of Hawaii 1997.

(Approved July 20, 1998.)

## ACT 273

H.B. NO. 2800

A Bill for an Act Relating to Management of State Funds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 36-21, Hawaii Revised Statutes, is amended to read as follows:

**"§36-21 Short-term investment of state moneys.** The director of finance may invest any moneys of the State which in the director's judgment are in excess of the amounts necessary for meeting the immediate requirements of the State and where in the director's judgment the action will not impede or hamper the necessary financial operations of the State in:

- (1) Any bonds or interest-bearing notes or obligations:
  - (A) Of the State (including state director of finance's warrant notes issued pursuant to chapter 40);
  - (B) Of the United States;
  - (C) For which the faith and credit of the United States are pledged for the payment of principal and interest;

- (2) Federal land bank bonds;
- (3) Joint stock farm loan bonds;
- (4) Federal Home Loan Bank notes and bonds;
- (5) Federal Home Loan Mortgage Corporation bonds;
- (6) Federal National Mortgage Association notes and bonds;
- (7) Securities of a mutual fund whose portfolio is limited to bonds or securities issued or guaranteed by the United States or an agency thereof;
- (8) Repurchase agreements fully collateralized by any such bonds or securities;
- (9) Federally insured savings accounts;
- (10) Time certificates of deposit;
- (11) Certificates of deposit open account;
- (12) Repurchase agreements with federally insured banks, savings and loan associations, and financial services loan companies;
- (13) Student loan resource securities including:
  - (A) Student loan auction rate securities;
  - (B) Student loan asset-backed notes;
  - (C) Student loan program revenue notes and bonds; and
  - (D) Securities issued pursuant to Rule 144A of the Securities Act of 1933, including any private placement issues; issued with either bond insurance or overcollateralization guaranteed by the United States Department of Education; provided all insurers maintain a triple-A rating by Standard & Poors, Moody's, Duff & Phelps, Fitch, or any other major national securities rating agency;
- (14) Commercial paper with an A1/P1 or equivalent rating by any national securities rating service; and
- (15) Bankers' acceptances with an A1/P1 or equivalent rating by any national securities rating service;

provided that the investments are due to mature not more than five years from the date of investment. Income derived therefrom shall be a realization of the general fund.

Except with respect to an early withdrawal penalty on an investment permitted by this section, the amount of such penalty being mutually agreed at the time of acquisition of such investment, no investment permitted by this section shall require or may in the future require payments by the State, whether unilateral, reciprocal, or otherwise, including margin payments, or shall bear interest at a variable rate which causes or may cause the market price of such investment to fluctuate; provided that such limitation shall not apply to money market mutual funds which (1) invest solely in (A) direct and general obligations of the United States of America or (B) obligations of any agency or instrumentality of the United States of America the payment of the principal and interest on which are unconditionally guaranteed by the full faith and credit of the United States of America, (2) are rated at the time of purchase "AAAm-G" or its equivalent by Standard & Poor's Ratings Group, and (3) are open-end management investment companies regulated under the Investment Company Act of 1940, as amended, which calculate their current price per share pursuant to Rule 2a-7 (17 Code of Federal Regulations section 270.2a-7) promulgated under such act.

Furthermore, the State shall not acquire any investment or enter into any agreement in connection with the acquisition of any investment or related to any existing investment held by the State, which would require or may in the future require any payment by the State, whether unilateral, reciprocal, or otherwise, such as swap agreements, hedge agreements, or other similar agreements. For purposes of this section, a swap or hedge payment is any payment made by the State in

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consideration or in exchange for a reciprocal payment by any person, such as a variable rate payment in exchange for a fixed rate payment, a fixed rate payment in exchange for a variable rate payment, a payment when a cap or a floor amount is exceeded, or other similar payment.”

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 1998.

(Approved July 20, 1998.)

**ACT 274**

H.B. NO. 2801

A Bill for an Act Relating to the Housing and Community Development Corporation of Hawaii.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The provisions of section 201G-120(a), Hawaii Revised Statutes, relating to the corporation’s requirement to first offer not less than ten per cent of the total number of units in single-family projects consisting of fifty units or more sponsored by the housing and community development corporation of Hawaii to owner-builders or nonprofit organizations assisting owner-builders in construction of units, shall not apply to the housing and community development corporation of Hawaii’s current or future development in Kapolei, Oahu, consisting of approximately 888 acres, known as the Villages of Kapolei.

SECTION 2. This Act shall take effect on July 1, 1998.

(Approved July 20, 1998.)

**ACT 275**

H.B. NO. 2823

A Bill for an Act Relating to Motor Vehicle Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to continue to effectuate motor vehicle insurance reform initiated by the passage of Act 251, Session Laws of Hawaii 1997. This Act:

- (1) Assists Hawaii drivers and insurers during the transitional phase of the implementation of new laws;
- (2) Streamlines the motor vehicle insurance administration process; and
- (3) Makes numerous technical, nonsubstantive changes for purposes of clarity and style.

SECTION 2. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to article 10C to be appropriately designated and to read as follows:

**“§431:10C- Indemnification of agents; policyholder applications.** General agents, subagents, solicitors, or brokers licensed under article 9 shall be indemnified by the insurance companies for the policies they issue, in civil damages



for simple negligence arising out of the placement or renewal of policyholder applications for the motor vehicle insurance required under article 10C; provided that nothing in this section shall be construed to exempt the general agents, subagents, solicitors, or brokers from liability for gross negligence arising out of those acts.”

SECTION 3. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to article 10C to be appropriately designated and to read as follows:

“**§431:10C- Binding arbitration.** (a) A claimant or defendant shall have the option to elect arbitration to resolve a claim in tort that is covered by motor vehicle liability insurance.

(b) A claimant or defendant may submit any dispute relating to a tort claim to binding arbitration by either filing a written request with the clerk of the circuit court in the circuit where the accident occurred or by agreement.

(c) A claimant or defendant shall have the opportunity to decline arbitration.

(d) Except as otherwise provided herein, arbitration shall be in accordance with and governed by chapter 658.

(e) Fees and costs of arbitration shall be borne equally by the parties, unless otherwise agreed to by the parties.

(f) Any arbitration award issued under this section shall be limited to the applicable liability policy limit, unless the insured tortfeasor otherwise agrees.”

SECTION 4. Section 431:10C-103, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read as follows:

““Motor vehicle insurance policy” means an insurance policy that meets the requirements of section 431:10C-301.

“Monthly earnings” means:

(1) In the case of a person regularly employed, one-twelfth of the average annual compensation before state and federal income taxes at the time of injury or death;

(2) In the case of a person regularly self-employed, one-twelfth of the average annual earnings before state and federal income taxes at the time of injury or death; or

(3) In the case of an unemployed person or a person not regularly employed or self-employed, one-twelfth of the anticipated annual compensation before state and federal income taxes that would have been paid from the time the person would reasonably have been expected to be regularly employed.”

2. By amending the definitions of “insured” and “person receiving public assistance” to read as follows:

““Insured” means:

(1) The person identified by name as insured in a motor vehicle insurance policy complying with section 431:10C-301; and

(2) [While] A person residing in the same household with a named insured, [the following persons not identified by name as an insured in any other contract of motor vehicle insurance policy complying with this article:] specifically:

(A) A spouse or reciprocal beneficiary or other relative of a named insured[.]; and

(B) A minor in the custody of a named insured or of a relative residing in the same household with a named insured.

A person resides in the same household if the person usually makes the person's home in the same family unit, which may include reciprocal beneficiaries, even though the person temporarily lives elsewhere.

"Person receiving public assistance benefits" means:

- (1) Any person receiving benefits consisting of [medical services or] direct cash payments through the department of human services; or
- (2) Any person receiving benefits from the Supplemental Security Income Program under the Social Security Administration."

3. By repealing the definition of "personal injury protection policy".

[""Personal injury protection policy" means an insurance policy which meets the requirements of section 431:10C-301."]

SECTION 5. Section 431:10C-103.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Personal injury protection benefits, with respect to any accidental harm, means all appropriate and reasonable treatment and expenses necessarily incurred as a result of the accidental harm and which are substantially comparable to the requirements for prepaid health care plans, including medical, hospital, surgical, professional, nursing, dental, optometric, chiropractic, ambulance, prosthetic services, products and accommodations furnished, x-ray, psychiatric, physical[, and] therapy pursuant to prescription by a medical doctor, occupational therapy, [and] rehabilitation[.], and therapeutic massage by a licensed massage therapist when prescribed by a medical doctor."

SECTION 6. Section 431:10C-103.6, Hawaii Revised Statutes, is amended to read as follows:

**"[§431:10C-103.6] Personal injury protection benefits tied to prepaid health care plan for description of coverage only.** (a) The benefits provided under section 431:10C-103.5 shall be substantially comparable to the requirements for prepaid health care plans, as provided in chapter 393 and rules of the department of labor and industrial relations, pertaining to the Prepaid Health Care Act[, as of January 1, 1998]. The reference to the Prepaid Health Care Act is only for purposes of describing the coverages and exclusions, without regard to any specific insurer or plan, and shall not be construed to transfer coverage to the prepaid health care plans. The precise charges and utilization rates shall be as contained in the workers' compensation schedules as provided under section 431:10C-308.5, unless modified by the commissioner by rule under chapter 91.

(b) Chiropractic treatments shall be allowed for not more than the lesser of the following:

- (1) Thirty visits at no more than \$75 a visit, plus no more than five x-rays at no more than \$50 each;<sup>1</sup> or
- (2) Treatment as defined by the Hawaii State Chiropractic Association guidelines[.] in effect on January 25, 1997.

(c) Acupuncture treatments shall be allowed for no more than thirty visits at no more than \$75 a visit.

(d) The combined total of chiropractic and acupuncture treatments may not exceed thirty visits.

[(b)] (e) The benefits under section 431:10C-103.5 may be with copayment, and shall be subject to and apply the utilization requirements applicable under prepaid health care plans, under chapter 393."

SECTION 7. Section 431:10C-104.5, Hawaii Revised Statutes, is amended to read as follows:

“**§431:10C-104.5 Amnesty period for uninsured motorists.** Notwithstanding any other provision of law to the contrary, any penalties and any provision for surcharge based on prior failure, since January 1, 1996, to maintain no-fault or motor vehicle insurance or suspension or revocation of license due solely to failure to maintain no-fault or motor vehicle insurance shall not apply to any uninsured motorist who obtains the required coverages prior to December 31, [1997.] 1998.”

SECTION 8. Section 431:10C-111.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) For every two new [automobile] motor vehicle insurance policies that the insurer voluntarily writes in each rating territory, the insurer shall be permitted to non-renew or conditionally renew one additional [automobile] motor vehicle insurance policy in that territory in excess of the two per cent limit established in subsection (a) [of this section], subject to a fair and nondiscriminatory formula developed by the commissioner that shall consider the number of [automobile] motor vehicle insurance policies written less cancellations initiated by the insurer within the first sixty days of the policy period.”

SECTION 9. Section 431:10C-117, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) (1) Any person subject to this article in the capacity of the operator, owner, or registrant of a motor vehicle operated in this State, or registered in this State, who violates any applicable provision of this article, shall be subject to citation for the violation by any county police department in a form and manner approved by the traffic violations bureau of the district court of the first circuit[.];
- (2) Notwithstanding any provision of the Hawaii Penal Code:
- (A) Each violation shall be deemed a separate offense and shall be subject to a fine of not less than \$100 nor more than \$5,000 which shall not be suspended except as provided in subparagraph (B); and
- (B) If the person is convicted of not having had a motor vehicle insurance policy in effect at the time the citation was issued, the fine shall be \$500 for the first offense and a minimum of \$1,500 for each subsequent offense that occurs within a five-year period from any prior conviction; provided that the judge:
- (i) Shall have the discretion to suspend the fine for the first offense; provided further that upon the defendant’s request, the judge may grant community service in lieu of the fine, of not less than seventy-five hours and not more than one hundred hours for the first offense, and not less than two hundred hours nor more than two hundred seventy-five hours for the second offense; and
- (ii) May grant community service in lieu of the fine for subsequent offenses at the judge’s discretion[.];
- (3) In addition to the fine in paragraph (2), for the first conviction within a five-year period for the offense of driving without a valid motor vehicle insurance policy, the court shall either:
- (A) Suspend the driver’s license of the driver or of the registered owner for three months[.]; provided that they shall not be re-

quired to obtain proof of financial responsibility pursuant to section 287-20; or

- (B) Require the driver or the registered owner to keep a nonrefundable motor vehicle insurance policy in force for six months[.]; In addition to the fine in paragraph (2), if the violation is a subsequent offense of driving without a valid motor vehicle insurance policy, within a five-year period of any prior conviction, the driver's [licenses] license of the driver or the registered owner shall be suspended for one year and the driver or the registered owner shall be required to maintain proof of financial responsibility pursuant to section 287-20[.];
- (4) Any person cited under this section shall have an opportunity to present a good faith defense, including but not limited to lack of knowledge or proof of insurance. The general penalty provision of this section shall not apply to:
  - (A) Any operator of a motor vehicle owned by another person if the operator's own insurance covers such driving;
  - (B) Any operator of a motor vehicle owned by that person's employer during the normal scope of that person's employment; or
  - (C) Any operator of a borrowed motor vehicle if the operator holds a reasonable belief that the subject vehicle is insured[.]; and
- (5) In the case of multiple convictions for driving without a valid motor vehicle insurance policy within a five-year period from any prior conviction, the court, in addition to any other penalty, shall impose the following penalties:
  - (A) Imprisonment of not more than thirty days;
  - (B) Suspension or revocation of the motor vehicle registration plates of the vehicle involved;
  - (C) Impoundment, or impoundment and sale, of the motor vehicle for the costs of storage and other charges incident to seizure of the vehicle, or any other cost involved pursuant to section 431:10C-301; or
  - (D) Any combination of those penalties.''

SECTION 10. Section 431:10C-119, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Prior to licensing an insurer to transact a motor vehicle insurance business in this State, the commissioner:

- (1) Shall effect a thorough examination of the insurer's business experience, financial soundness, and general reputation as an insurer in this and other states. In the discretion of the commissioner, this examination may include an examination of any or all of the business records of the insurer, and an audit of all or any part of the insurer's motor vehicle insurance business, each to be performed by the commissioner's staff or by independent consultants. No license shall be issued until the commissioner is satisfied as to the business experience, financial solvency, and the economic soundness of the insurer; [and]
- (2) Shall require of each insurer, and determine that satisfactory arrangements have been made for, the provision of a complete sales and claims service office in the State[.]; and
- (3) Notwithstanding any other requirements of this section or of the insurance code, may require a bond in a reasonable amount and with deposits or sureties determined in the commissioner's discretion of any applicant for a license hereunder. The commissioner may, at any time,

make and enforce such a requirement of any licensed insurer or self-insurer.”

SECTION 11. Section 431:10C-120, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Any insurer, any general agent, agent, solicitor, or representative of an insurer who violates subsection (a) shall be subject to [the provisions of] section [431:10C-117(c).] 431:10C-117.”

SECTION 12. Section 431:2-201, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The commissioner may:

- (1) Make[, subject to chapter 91,] reasonable rules [and regulations] for effectuating any provision of this code, except those relating to the commissioner’s appointment, qualifications, or compensation. The commissioner shall adopt rules to effectuate article 10C of chapter 431, subject to the approval of the governor’s office and the requirements of chapter 91.
- (2) Conduct examinations and investigations to determine whether any person has violated any provision of this code or to secure information useful in the lawful administration of any [such] provision.
- (3) Require, upon reasonable notice, that insurers report [such] any claims information [as] the commissioner may deem necessary to protect the public interest.”

SECTION 13. Section 431:10C-206.5, Hawaii Revised Statutes, is amended to read as follows:

“[[]§431:10C-206.5[]] Group insurance plans. (a) [Any] Notwithstanding section 431:12-104(a), any insurer may issue any insurance coverage on a group plan, without restriction as to the purpose of the group, occupation, or type of group. Group insurance rates shall not be considered to be unfairly discriminatory, if they are averaged broadly among other persons insured under the group plan.

(b) This section is additional to article 12 and other provisions of law, with the exception of section 431:12-104(a), relating to group insurance.”

SECTION 14. Section 431:10C-208, Hawaii Revised Statutes, is amended to read as follows:

“**§431:10C-208 Increase in premiums prohibited.** No premium on any motor vehicle insurance policy shall be increased as a result of any accident if the insured is not at fault in the accident. An accident in which the insured was not at fault shall not be used in any way to affect any subsequent increases,<sup>2</sup> including loss of any discounts,<sup>2</sup> in insurance premiums.”

SECTION 15. Section 431:10C-215, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) The commissioner shall, in the commissioner’s discretion, cause an audit to be made of all or any segment of the motor vehicle insurance books and business records of any insurer by the staff of the division or by an independent

[auditor.] contract examiner. A copy of every audit, internal or external, performed by any insurer of any aspect of its motor vehicle books and business records shall be submitted immediately upon completion to the commissioner.

(c) The commissioner shall assess and collect from each insurer, self-insurer, and from every applicant for a certificate of self-insurance or a license to transact the motor vehicle insurance and optional additional insurance business in this State, such portion of the full cost of every audit, inspection, examination, visitation, and other services related to motor vehicle insurance required by this or any other article, or performed by the commissioner in the commissioner's discretion under this article or this code, as the commissioner deems equitable in rendering of [such] the service. The charges for audits, inspections, examinations and visitations shall be collected and paid into the insurance examiners revolving fund when moneys from this fund are expended for the purposes of carrying out this section. All other charges collected shall be collected and paid into the general fund of this State."

SECTION 16. Section 431:10C-301, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

- “(a) An insurance policy covering a motor vehicle shall provide:
- (1) Coverage specified in section 431:10C-304; and
  - (2) Insurance to pay on behalf of the owner or any operator of the insured motor vehicle using the motor vehicle with [the express or implied permission of the named insured,] a reasonable belief that the person is entitled to operate the motor vehicle, sums which the owner or operator may legally be obligated to pay for injury, death, or damage to property of others, except property owned by, being transported by, or in the charge of the insured, which arise out of the ownership, operation, maintenance, or use of the motor vehicle; provided that in the case of a U-drive motor vehicle, insurance to pay on behalf of the renter or any operator of the insured motor vehicle using the motor vehicle with the express permission of the renter or lessee, sums which the renter or operator may be legally obligated to pay for damage or destruction of property of others (except property owned by, being transported by, or in the charge of the renter or operator) arising out of the operation or use of the motor vehicle unless the motor vehicle is reported stolen by the owner within three days of notification of the incident; provided that the insurer and owner of a U-drive vehicle shall have the right of subrogation against the renter and operator for breach of the rental contract between owner and renter; and provided further that, in the event that any motor vehicle offered for rental or lease is involved in an accident, the lessor shall provide all information it has or obtains relevant to the accident to all other involved parties upon their request, including but not limited to information about the lessee, and the driver of the vehicle if other than the lessee.
- (b) A motor vehicle insurance policy shall include:
- (1) Liability coverage of not less than \$20,000 per person, with an aggregate limit of \$40,000 per accident, for all damages arising out of accidental harm sustained [by any one person] as a result of any one accident [applicable to each person sustaining accidental harm] and arising out of ownership, maintenance, use, loading, or unloading of [the insured] a motor vehicle;
  - (2) Liability coverage of not less than \$10,000 for all damages arising out of damage to or destruction of property including motor vehicles and including the loss of use thereof, but not including property owned by,

being transported by, or in the charge of the insured, as a result of any one accident arising out of ownership, maintenance, use, loading, or unloading, of the insured vehicle;

- (3) With respect to any motor vehicle registered or principally garaged in this State, liability coverage provided therein or supplemental thereto, in limits for bodily injury or death set forth in paragraph (1), under provisions filed with and approved by the commissioner, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, or disease, including death, resulting therefrom; provided that the coverage required under this paragraph shall not be applicable where any named insured in the policy shall reject the coverage in writing; and
- (4) Coverage for loss resulting from bodily injury or death suffered by any person legally entitled to recover damages from owners or operators of underinsured motor vehicles. An insurer may offer the underinsured motorist coverage required by this paragraph in the same manner as uninsured motorist coverage; provided that the offer of both shall:
  - (A) Be conspicuously displayed so as to be readily noticeable by the insured;
  - (B) Set forth the premium for the coverage adjacent to the offer in a manner that the premium is clearly identifiable with the offer and may be easily subtracted from the total premium to determine the premium payment due in the event the insured elects not to purchase the option; and
  - (C) Provide for written rejection of the coverage by requiring the insured to affix the insured's signature in a location adjacent to or directly below the offer."

SECTION 17. Section 431:10C-301.5, Hawaii Revised Statutes, is amended to read as follows:

**“[[§431:10C-301.5]] Covered loss deductible.** [(a)] Whenever a person effects a recovery for bodily injury, whether by suit, arbitration, or settlement, and it is determined that the person is entitled to recover damages, the judgment, settlement, or award shall be reduced by \$5,000 or the amount of personal injury protection benefits incurred, whichever is greater, up to the maximum limit. The covered loss deductible shall not include benefits paid or incurred under any optional additional coverage.

[(b)] It shall be a violation of section 431:13-103 for any insurer to alter, adjust, or in any way offset a judgment, settlement, or award as a result of the maximum limit as defined in section 431:10C-103.]”

SECTION 18. Section 431:10C-302, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In addition to the motor vehicle insurance coverages described in section 431:10C-301, every insurer issuing a motor vehicle insurance policy shall make available to the insured the following optional insurance under the following conditions[.]. Every insurer issuing a commercial motor vehicle insurance policy shall make available to the insured the following optional insurance, except for those benefits under paragraphs (4), (5), (9), (10), and (11) under the following conditions:

- (1) At the option of the insured, provisions covering loss resulting from damage to the insured's motor vehicle with such deductibles, including

but not limited to collision and comprehensive deductibles of \$50, \$100, \$250, \$500, \$1,000, \$1,500, and \$2,000, at appropriately reduced premium rates, as the commissioner, by [regulation,] rule, shall provide;

- (2) At the option of the insured, compensation to the insured, the insured's spouse, any dependents, or any occupants of the insured's vehicle for damages not covered by personal injury protection benefits;
- (3) Additional coverages and benefits with respect to any injury or any other loss from motor vehicle accidents or from operation of a motor vehicle for which the insurer may provide for aggregate limits with respect to such additional coverage so long as the basic liability coverages provided are not less than those required by section 431:10C-301(b)(1) and [(b)(2);] (2);
- (4) At the option of the insured, an option in writing for coverage for wage loss benefits for monthly earnings loss for injury arising out of a motor vehicle accident. Any change in the wage loss benefits coverage selected by an insured shall apply only to benefits arising out of motor vehicle accidents occurring after the date the change becomes effective. Coverage shall be offered in [the amounts of \$1,000 a month to \$5,000 a month in increments of \$500 a month;] multiples of \$500 a month/\$3,000 per accident per person, from \$500 a month/\$3,000 per accident to \$2,000 a month/\$12,000 per accident; however, nothing shall prevent an insurer from making available higher limits of coverage[.];

[Benefit payments under this paragraph shall be for no less than two years following the date of the accidental harm and be made for lost net income after taxes for as long as the treating health care provider determines that the covered person's injuries prevent the person from engaging in the employment in which the person was engaged immediately prior to the accident. Benefit payments after more than two years following the date of the accident shall continue if the treating health care provider determines the person is disabled from employment to which the person is suited by education, training, and experience. If, pursuant to this requirement, the covered person engages in a form of employment other than that in which the person was engaged immediately prior to the accident, the person shall receive payment for the difference between the person's resulting net income after taxes and the person's net income after taxes immediately prior to the accident;]

- (5) An option in writing for minimum coverage for death benefits for death arising out of a motor vehicle accident in an amount of \$25,000, to be paid to [named beneficiaries. If there is no named beneficiary, the amount shall be paid to] the surviving spouse, for the benefit of the spouse and dependent children, or if there are no surviving spouse or dependent children, then to the estate. Coverage shall also be made available for increased death benefits in increments of \$25,000 up to \$100,000; however, nothing shall prevent an insurer from making available higher limits of coverage. At the option of the insured, coverage for funeral expenses of \$2,000 shall be made available;
- (6) Terms, conditions, exclusions, and deductible clauses, coverages, and benefits which:
  - (A) Are consistent with the required provisions of [such] the policy,
  - (B) Limit the variety of coverage available so as to give buyers of insurance reasonable opportunity to compare the cost of insuring with various insurers[.]; and



- (C) Are approved by the commissioner as fair and equitable;
- (7) At appropriately reduced premium rates, deductibles applicable only to claims of an insured in the amounts of \$100, \$300, \$500, and \$1,000 from all personal injury protection benefits otherwise payable; provided that if two or more insureds to whom the deductible is applicable under the contract of insurance are injured in the same accident, the aggregate amount of the deductible applicable to all of them shall not exceed the specified deductible, which amount where necessary shall be allocated equally among them;
- (8) Every insurer shall fully disclose the availability of all required and optional coverages and deductibles, including the nature and amounts, at the issuance or delivery of the policy; or, for a policy already issued [at the time of] on January 1, 1998, disclosure shall be made at the first renewal after January 1, 1998. The insurer shall also disclose at issuance or renewal, as applicable, the effect on premium rates and savings of each option and deductible. Further offers or disclosures thereafter shall be required to be included with every other renewal or replacement policy. All elections of coverages, options, and deductibles by a named insured shall be binding upon additional insureds covered under the named insured's policy. The purpose of this paragraph is to inform insureds or prospective insureds of the coverages under this article;
- (9) (A) An insurer may make available, and provide at the option of the named insured, the benefits described in section 431:10C-103.5(a) through managed care providers such as a health maintenance organization or a preferred provider organization. The option may include conditions and limitations to coverage, including deductibles and coinsurance requirements, as approved by the commissioner. The commissioner shall approve those conditions and limitations which are substantially comparable to or exceed the coverage provided under section 431:10C-103.6;
- (B) An insurer may make available, and provide at the option of the named insured, deductible and coinsurance arrangements whereby the recipient of care, treatment, services, products, expenses, or accommodations shares in the payment obligation;
- (C) No deductible or coinsurance under a policy covered under section 431:10C-302(a)(9)(A) or (B) shall be applied with respect to care, treatment, services, products, or accommodation provided or expenses incurred by an insured during the first twenty-four hours in which emergency treatment has been provided or until the insured patient's emergency medical condition is stabilized, whichever is longer;
- (D) (i) The optional coverage prescribed in section 431:10C-302(a)(9)(A) and (B) shall apply only to the named insured, resident spouse, or resident relative; and
- (ii) "Resident relative" means a person who, at the time of the accident, is related by blood, marriage, or adoption to the named insured or resident spouse and who resides in the named insured's household, even if temporarily living elsewhere, and any ward or foster child who usually resides with the named insured, even if living elsewhere;
- (E) An agreement made under section 431:10C-302(a)(9) must be a voluntary agreement between the insured and the insurer, and no insurer shall require an insured to agree to those policy provisions

as a condition of providing insurance coverage. Requiring an agreement as a precondition to the provision of insurance shall constitute an unfair insurance practice and shall be subject to the provisions, remedies, and penalties provided in article 13; and

- (F) An insurer providing the coverages authorized in section 431:10C-302(a)(9)(A) and (B) shall demonstrate in rate filings submitted to the commissioner the savings to the insured to be realized under the plan; [and]
- (10) An insurer shall make available optional coverage for naturopathic, acupuncture, [and nonremedial] nonmedical remedial care, and treatment rendered in accordance with the teachings, faith, or belief of any group which relies upon spiritual means through prayer for healing[.]; and
- (11) An insurer may make available optional coverage for chiropractic treatment in addition to chiropractic treatment provided under §431:10C-103.6 for not more than the lesser of the following:
  - (A) Thirty additional visits at no more than \$75 a visit; or
  - (B) Treatment as defined by the Hawaii Chiropractic Association guidelines in effect on January 25, 1997.

The commissioner shall adopt rules, including policy limits, terms, and conditions as necessary to implement the requirements of this section.”

SECTION 19. Section 431:10C-302.5, Hawaii Revised Statutes, is amended by amending its title<sup>3</sup> and subsection (a) to read as follows:

“~~[[§431:10C-302.5]]~~ **Managed care option.** (a) An insurer [shall] may offer, and provide at the option of the named insured, the personal injury protection benefits through managed care providers such as a health maintenance organization or preferred provider organization. The option may include conditions and limitations to coverage, including deductibles and coinsurance requirements, as approved by the commissioner. The commissioner shall approve those conditions and limitations if the benefits are substantially comparable to or exceed the requirements of section 431:10C-103.5.”

SECTION 20. Section 431:10C-303.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A U-drive motor vehicle insurance policy shall be primary; provided that its bodily injury and property damage liability [coverage] coverages shall be secondary to the operator’s or renter’s motor vehicle insurance policy if:

- (1) The U-drive rental business provides any claimant or person sustaining accidental harm or damages, as a result of the operation of the rental vehicle, the identity and address of the operator or renter, along with any information available to the U-drive rental business as to the identity and address of any insurer under any liability policies applicable to the operator or renter; provided that the U-drive rental business shall make reasonable efforts to obtain such information;
- (2) A suit may be filed and service upon the responsible operator or renter can be effectuated; and
- (3) An insurer responds on behalf of the operator or renter to a claim or suit.”

SECTION 21. Section 431:10C-304, Hawaii Revised Statutes, is amended to read as follows:

**“§431:10C-304 Obligation to pay personal injury protection benefits.**

For purposes of this section, the term “personal injury protection insurer” includes personal injury protection self-insurers. Every personal injury protection insurer shall provide personal injury protection benefits for accidental harm as follows:

- (1) Except as otherwise provided in section 431:10C-305(d), in the case of injury arising out of a motor vehicle accident, the insurer shall pay, without regard to fault, to the provider of services on behalf of the following persons who sustain accidental harm as a result of the operation, maintenance, or use of the vehicle, an amount equal to the personal injury protection benefits as defined in section 431:10C-103.5(a) payable for expenses to that person as a result of the injury:
  - (A) Any person, including the owner, operator, occupant, or user of the insured motor vehicle;
  - (B) Any pedestrian (including a bicyclist); or
  - (C) Any user or operator of a moped as defined in section 249-1; provided that this paragraph shall not apply in the case of injury to or death of any operator or passenger of a motorcycle or motor scooter as defined in section 286-2 arising out of a motor vehicle accident[;], unless expressly provided for in the motor vehicle policy;<sup>1</sup>
- (2) Payment of personal injury protection benefits shall be made as the benefits accrue, except that in the case of death, payment of benefits under section 431:10C-302(a)(5) may be made immediately in a lump sum payment, at the option of the beneficiary;
- (3) (A) Payment of personal injury protection benefits shall be made within thirty days after the insurer has received reasonable proof of the fact and amount of benefits accrued, and demand for payment thereof[;].<sup>4</sup> All providers must produce descriptions of the service provided in conformity with applicable fee schedule codes;
- (B) If the insurer elects to deny a claim for benefits in whole or in part, the insurer shall, within thirty days, notify the claimant in writing of the denial and the reasons for the denial. The denial notice shall be prepared and mailed by the insurer in triplicate copies and be in a format approved by the commissioner. In the case of benefits for services specified in section 431:10C-103.5(a) the insurer shall also mail a copy of the denial to the provider; and
- (C) If the insurer cannot pay or deny the claim for benefits because additional information or loss documentation is needed, the insurer shall, within the thirty days, forward to the claimant an itemized list of all the required documents. In the case of benefits for services specified in section 431:10C-103.5(a) the insurer shall also forward the list to the service provider;
- (4) Amounts of benefits which are unpaid thirty days after the insurer has received reasonable proof of the fact and the amount of benefits accrued, and demand for payment thereof, after the expiration of the thirty days, shall bear interest at the rate of one and one-half per cent per month;
- (5) No part of personal injury protection benefits paid shall be applied in any manner as attorney’s fees in the case of injury or death for which the benefits are paid. The insurer shall pay, subject to section 431:10C-211, in addition to the personal injury protection benefits due, all attorney’s fees and costs of settlement or suit necessary to effect the payment of any or all personal injury protection benefits found due

under the contract. Any contract in violation of this provision shall be illegal and unenforceable. It shall constitute an unlawful and unethical act for any attorney to solicit, enter into, or knowingly accept benefits under any contract; and

- (6) Any insurer who violates this section shall be subject to section 431:10C-117(b) and (c).”

SECTION 22. Section 431:10C-306, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Tort liability is not abolished as to the following persons, their personal representatives, or their legal guardians in the following circumstances:

- (1) Death occurs to [such] the person in such a motor vehicle accident;
- (2) Injury occurs to [such] the person which consists, in whole or in part, in a significant permanent loss of use of a part or function of the body;
- (3) Injury occurs to [such] the person which consists of a permanent and serious disfigurement which results in subsection of the injured person to mental or emotional suffering; or
- (4) Injury occurs to [such] the person in a motor vehicle accident and as a result of such injury that the personal injury protection benefits incurred by such person equal or exceed \$5,000[.]; provided that in calculating this amount:

(A) The following shall be included:

- (i) Personal injury protection benefits incurred by, paid to or payable to, or on behalf of, an eligible injured person including amounts paid directly by or on behalf of the eligible insured because of the accidental harm or similar benefits under social security, worker’s compensation, or public assistance laws;
- (ii) The applicable amounts of deductible or copayment paid or incurred;
- (iii) Amounts paid by or on behalf of an injured person who is not entitled to personal injury protection benefits, by health insurance or other funds; provided that payment in excess of the charges or services allowable under this chapter shall not be included;
- (iv) Where an eligible injured person receives coverage on other than a fee for service basis including, but not limited to, a health maintenance organization operating on a capitation basis, the value of services provided shall be determined in accordance with the fee schedules allowable under this chapter for purposes of threshold determination;

(B) When a person has optional coverage, benefits received in excess of the maximum basic personal injury protection limits set forth in section 431:10C-103.5 shall not be included.”

SECTION 23. Section 431:10C-306, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) No claim may be made for benefits under the uninsured motorist coverage by an injured person against an insurer who has paid or is liable to pay [[personal injury protection]] motor vehicle insurance benefits to [such] the injured person unless [such] the claim meets the requirements of [subsection (b).] this article.”

SECTION 24. Section 431:10C-307, Hawaii Revised Statutes, is amended to read as follows:

“**§431:10C-307 Reimbursement of duplicate benefits.** Whenever any person effects a tort liability recovery for accidental harm, whether by suit or settlement, which duplicates personal injury protection benefits already paid under the provisions of this article, the motor vehicle insurer shall be reimbursed fifty per cent of the personal injury protection benefits paid to [such] or on behalf of the person receiving the duplicate benefits[,] up to the maximum limit.”

SECTION 25. Section 431:10C-307.8, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The purpose of the insurance fraud [[ ]investigations[ ]] unit shall be to conduct a statewide program for the investigation and prosecution of insurance fraud cases and violations of all applicable state laws relating to insurance fraud. The insurance fraud [[ ]investigations[ ]] unit may also review and take appropriate action on complaints relating to insurance fraud.”

SECTION 26. Section 431:10C-308.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The charges and frequency of treatment for services specified in section 431:10C-103.5(a), except for emergency services provided within seventy-two hours following a motor vehicle accident resulting in injury, shall not exceed the charges and frequency of treatment permissible under the workers’ compensation schedules. Charges for independent medical examinations, including record reviews, physical examinations, history taking, and reports, to be conducted by a licensed Hawaii provider<sup>5</sup> unless the insured consents to an out-of-state provider, shall not exceed the charges permissible under the workers’ compensation schedules for consultation for a complex medical problem. The workers’ compensation schedules shall not apply to independent medical examinations conducted by out-of-state providers; provided that the charges for the examination are reasonable. All records relating to an independent medical examination shall be made available to the claimant upon request. The commissioner may adopt administrative rules relating to fees or frequency of treatment for injuries covered by personal injury protection benefits. If adopted, these administrative rules shall prevail to the extent that they are inconsistent with the workers’ compensation schedules.”

SECTION 27. Section 431:10C-308.5, Hawaii Revised Statutes, is amended by adding a new subsection to read as follows:

“(f) A health care provider shall be compensated by the insurer for preparing reports documenting the need for treatments which exceed the schedules in accordance with the fee schedule for special reports. The health care provider may assess the cost of preparing a report to the insurer at no more than \$20 per page up to a maximum of \$75 for each report.”

SECTION 28. Section 431:10C-315, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) No suit shall be brought on any contract providing motor vehicle insurance benefits or any contract providing optional additional coverage more than[,] the later of:

- (1) Two years from the date of the motor vehicle accident upon which the claim is based;
- (2) Two years after the last payment of motor vehicle insurance [or optional additional] benefits;
- (3) Two years after the entry of a final order in arbitration; [or]
- (4) Two years after the entry of a final judgment in, or dismissal with prejudice of, a tort action arising out of a motor vehicle accident, where a cause of action for insurer bad faith arises out of the tort action[.]; or
- (5) Two years after payment of liability coverage, for underinsured motorist claims.”

SECTION 29. Section 431:10C-403, Hawaii Revised Statutes, is amended to read as follows:

“**§431:10C-403 Bureau’s duties.** The bureau shall promptly assign each claim and application, and notify the claimant or applicant of the identity and address of the assignee of the claim or application. Claims and applications shall be assigned so as to minimize inconvenience to claimants and applicants. The assignee, thereafter, has rights and obligations as if it had issued motor vehicle mandatory public liability and property damage policies complying with this [part] article applicable to the accidental harm or other damage, or, in the case of financial inability of a motor vehicle insurer or self-insurer to perform its obligations, as if the assignee had written the applicable motor vehicle insurance[,] policy, undertaken the self-insurance, or lawfully obligated itself to pay motor vehicle insurance benefits.”

SECTION 30. Section 431:10C-406, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The commissioner shall [make and promulgate] adopt all necessary and appropriate [regulations] rules for the execution of the commissioner’s duties under this [article] part as provided for in chapter 91.”

SECTION 31. Section 431:10C-407, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The commissioner shall establish classifications of eligible persons and uses for which the joint underwriting plan shall provide both the required motor vehicle insurance policies and any optional additional insurance an eligible person or user applies for. The commissioner shall, by [regulation,] rule, establish, implement, and supervise the joint underwriting plan, through the bureau, assuring that insurance for motor vehicles will be conveniently and expeditiously afforded, subject only to payment or provision for payment of the premium, to all applicants for insurance required by this part to provide insurance for payment of bodily injury and property damage liability insurance, or optional additional benefits, and who cannot reasonably obtain insurance at rates not in excess of those applicable to applicants under the plan, or who otherwise are in good faith entitled to, but unable to obtain, the insurance through ordinary methods.

(b) The plan shall provide all personal injury protection benefits and services and bodily injury and property damage liability coverages to the limits and coverages specified in this article for all classes of persons, motor vehicles, and motor vehicle uses specified in this [article] part upon the payment of premiums as provided in subpart C, as follows:

- (1) The plan shall provide personal injury protection benefits and policies for each of the following classes, and each class shall be able to secure

a personal injury protection and bodily injury and property damage liability policy through the plan:

- (A) All motor vehicles owned by licensed assigned risk drivers as the commissioner, by rules, shall define. The commissioner shall regulate the class in accordance with the general practice of the industry, the applicable results, if any, of the commissioner's examination of the motor vehicle insurers' business records and experience, and any applicable and scientifically credible governmental or academic studies of the multi-accident or high-risk [automobile] motor vehicle driver;
  - (B) All motor vehicles owned by licensed drivers convicted within the thirty-six months immediately preceding the date of application, in any jurisdiction of any one or more of the offenses of, or of the offenses cognate to:
    - (i) Heedless and careless driving;
    - (ii) Driving while license suspended or revoked;
    - (iii) Leaving the scene of an accident;
    - (iv) Manslaughter, if resulting from the operation of a motor vehicle; or
    - (v) Driving under the influence of an intoxicating liquor as provided in section 291-4 or any drug[, except marijuana,] as provided in section 291-7;
  - (C) All commercial uses, first class, defined as any commercial use engaged in the transport of passengers for hire or gratuity;
  - (D) All commercial uses, second class, defined as any commercial, business, or institutional use other than the transport of passengers as described in subparagraph (C) or the exclusive use of a vehicle for domestic-household-familial purposes; and
  - (E) All other motor vehicles, not classified under subparagraph (A), (B), (C), or (D), owned by licensed drivers who are unable to obtain motor vehicle insurance policies and optional additional insurance through ordinary methods;
- (2) The plan shall provide personal injury protection benefits and bodily injury and property damage policies for all classes of persons, motor vehicles, and motor vehicle uses, at the premiums specified under subpart C, at the option of the owners, for the following classes, which the commissioner, by rules, shall further define and regulate:
- (A) All licensed drivers, or unlicensed permanently disabled individuals unable to operate their motor vehicles, who are receiving public assistance benefits consisting of direct cash payments through the department of human services, or benefits from the supplemental security income program under the Social Security Administration; provided that the licensed drivers, or unlicensed permanently disabled individuals unable to operate their motor vehicles, are the sole registered owners of the motor vehicles to be insured; provided further that not more than one vehicle per public assistance unit shall be insured under this part, unless extra vehicles are approved by the department of human services as being necessary for medical or employment purposes; provided further that the motor vehicle to be insured shall be used strictly for personal purposes, and not for commercial purposes; and
  - (B) Any licensed physically handicapped driver, including drivers with any auditory limitation. Each category of driver/owner under subparagraphs (A) and (B) may secure motor vehicle

insurance coverage through the plan at the individual's option[,]; provided any previous motor vehicle insurance policy has expired or has been canceled. Any person becoming eligible for plan coverage under subparagraph (A) shall first exhaust all paid coverage under any motor vehicle insurance policy then in force before becoming eligible for plan coverage.

Any person eligible or becoming eligible under rules adopted by the commissioner under subparagraph (B), may at any time elect coverage under the plan and terminate any prior private insurer's coverage.

A certificate shall be issued by the department of human services indicating that the person is a bona fide public assistance recipient as defined in subparagraph (A). The certificate shall be deemed a policy for the purposes of chapter 431 upon the issuance of a valid motor vehicle insurance identification card pursuant to section 431:10C-107; and

- (3) Under the joint underwriting plan, the required motor vehicle policy coverages as provided in section 431:10C-301 shall be offered by every insurer to each eligible applicant assigned by the bureau. In addition, uninsured motorist and underinsured motorist coverages shall be offered in conformance with section 431:10C-301, and optional additional coverages shall be offered in conformance with section 431:10C-302, for each class except that defined in paragraph (2)(A), as the commissioner, by rules, shall provide."

SECTION 32. Section 431:10C-408, Hawaii Revised Statutes, is amended by amending subsections (c) through (e) to read as follows:

"(c) Any person eligible for benefits under this part, and who becomes eligible to file a claim or an action against the mandatory bodily injury liability or property damage liability policies, shall, upon the bureau's determination of eligibility, be entitled to:

- (1) The full personal injury protection benefits as if the victim had been covered as an insured at the time of the accident producing the accidental harm; and
- (2) The rights of claim and action against the insurer, assigned under section 431:10C-403, with reference to the mandatory bodily injury liability policy for accidental harm, and with reference to the mandatory property damage liability policy for property damage sustained.

Any claims of an eligible assigned claimant against either mandatory bodily injury liability or property damage liability policies, or the basic personal injury protection policy, shall be filed with the insurer assigned and shall be subject to all applicable conditions and provisions of [subparts A and B,] this subpart and subpart A, except that the date of notification of the assignment shall, where applicable, be substituted for the date of the accident for purposes of section 431:10C-315.

(d) By rules adopted by the commissioner, each self-insurer shall be assessed its equitable proration of all costs and claims paid under this [article] part annually. No claim shall be assigned to any self-insurer for servicing. Proration for insurers and self-insurers shall be founded upon a pro rata distribution for each premium dollar actually or theoretically received. Self-insurers shall be assessed that prorated amount based upon the total premium cost for the coverage and vehicles stated in its certificate of self-insurance, as if the self-insurer had sold [such] the coverage at the premium rates applicable under subpart C.



(e) If a person qualifies for assignment or benefits under this [article,] part, the joint underwriting plan or any insurer to whom the claim is assigned by the plan shall be subrogated to the rights of [such] the person and shall have a claim for relief or a cause of action, separate from that of [such] the persons, to the extent that:

- (1) It has paid personal injury protection benefits; and
- (2) Elements of damage compensated for by the plan, with reference to the mandatory [public liability policy for accidental harm] motor vehicle insurance or bodily injury policies and to the mandatory property damage policy for property damage sustained, are paid.’

SECTION 33. Section 431:10C-410, Hawaii Revised Statutes, is amended to read as follows:

“**§431:10C-410 Schedules.** The commissioner shall:

- (1) Set rate schedules periodically, but not less frequently than annually, for all classes in accordance with this part and the criteria in paragraph (3), so that the total premium income, from all plan motor vehicle insurance, when combined with the investment income, shall annually fund the costs of all joint underwriting plan classes, the joint underwriting assigned claims plan, and the administration of the plans;
- (2) Prior to setting rates in accordance with paragraph (1), hold a public hearing on the proposed rates to afford all interested persons an opportunity to be heard. Notice shall be published and the hearing shall be held in accordance with chapter 91;
- (3) Establish rates for the following classes within the following restrictions:
  - (A) For the licensed public assistance driver, as defined in section 431:10C-407(b)(2)(A), no premium shall be assessed for the mandatory [public liability or the mandatory property damage policies;] minimum personal injury protection, bodily injury, or property damage coverages; and all policies shall conform to section 431:10C-407(b)(2); and
  - (B) For the [physically limited driver] licensed physically handicapped driver, including drivers with any auditory limitation, defined in section 431:10C-407, no rate shall be set higher than that assessed a comparable driver without limitation, except that a higher rate may be surcharged under any applicable standard conforming with section 431:10C-409(3); and
- (4) Set various systems and schedules of rates based upon the risks involved, the experience with various exposures, uses, and drivers, and may include the establishment of surcharges for specific risks, drivers, and uses for each of the enumerated classes except the classes limited under paragraph (3).’

SECTION 34. Section 431:10G-301, Hawaii Revised Statutes, is amended to read as follows:

“**§431:10G-301 Required motorcycle and motor scooter policy coverage.** (a) An insurance policy covering a motorcycle or motor scooter shall provide insurance in the following amounts to pay, on behalf of the owner or any operator of the insured motorcycle or motor scooter, sums that the owner or any operator may legally be obligated to pay for injury, death, or damage to the property of others, except property owned by, being transported by, or in charge of the insured that arise

out of the ownership, operation, maintenance, or use of the motorcycle or motor scooter:

- (1) Liability coverage of not less than [\$25,000] \$20,000 per person, with an aggregate limit of \$40,000 per accident, for all damages arising out of accidental harm sustained [by any one person] as a result of any one accident [applicable to each person sustaining accidental harm]; and
- (2) Liability coverage of not less than \$10,000 for all damages arising out of injury to or destruction of property, including motorcycles or motor scooters and including the loss of use thereof, but not including property owned by, being transported by, or in the charge of the insured, as a result of any one accident.
- (b) At the option of the owner, each insurer shall:
  - (1) Offer medical payment coverage up to [\$20,000] \$10,000 to pay all reasonable expenses incurred within one year from the date of accident for necessary medical, surgical, dental, ambulance, hospital, professional, and nursing[, and funeral] services;
  - (2) Offer an income disability plan; and
  - (3) Offer liability coverage in excess of the minimum coverages required by this section.

(c) Any operator or passenger of a motorcycle or motor scooter as defined in section 286-2 who receives injuries or dies in a motor vehicle accident may not claim personal injury protection benefits under a motor vehicle insurance policy, unless expressly provided for in the motor vehicle policy."

SECTION 35. If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 36. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>6</sup>

SECTION 37. This Act shall take effect upon its approval, except that Section 2 of this Act shall take effect on January 1, 1999, and shall be repealed on January 1, 2001.

(Approved July 20, 1998.)

**Notes**

- 1. Semicolon should not be underscored.
- 2. Comma should be underscored.
- 3. So in original.
- 4. Period should be underscored.
- 5. Prior to amendment “,” appeared here.
- 6. Edited pursuant to HRS §23G-16.5.

**ACT 276**

H.B. NO. 2837

A Bill for an Act Relating to School Discipline.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 302A-1134.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any child who is found to be in possession of a dangerous weapon, switchblade knife, intoxicating liquor, or illicit drugs while attending school, may be excluded from attending school for up to ninety-two school days, as determined by the principal and approved by the superintendent[, the deputy superintendent, or the district superintendent with authority over the child. The] or other individuals designated pursuant to rules adopted by the board. In any case of exclusion from school, the due process procedures of the department adopted pursuant to chapter 91, shall apply to any child who is alleged to be in possession of a dangerous weapon, switchblade knife, intoxicating liquor, or illicit drugs while attending school[.]; provided that if the exclusion is for less than ten days, the provisions of Hawaii administrative rules, title 8, chapter 19, related to student discipline, shall apply. If a child is excluded from attending school, the superintendent or the superintendent’s designee shall ensure that substitute educational activities or other appropriate assistance are provided, such as referral for appropriate intervention and treatment services, as determined by the principal in consultation with the [school counselor.] appropriate school staff.”

SECTION 2. The board of education shall adopt rules in accordance with chapter 91 to implement the provisions of section 1.

SECTION 3. Notwithstanding section 1, until such time as the board of education has adopted rules pursuant to section 2, the superintendent, deputy superintendent, or district superintendent shall be authorized to exclude students from attending school for up to ninety-two school days.

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval; provided that section 3 shall be repealed on December 31, 1998.

(Approved July 20, 1998.)

## ACT 277

H.B. NO. 2842

A Bill for an Act Relating to the Director of Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 327C-1, Hawaii Revised Statutes, is amended by amending subsections (c), (d), and (e):

“(c) When a part of a donor is used for direct organ transplantation under chapter 327, and the donor’s death is established by determining that the donor experienced irreversible cessation of all functions of the entire brain, including the brain stem, the determination shall only be made under subsection (b) [of this section]. The determination of death in all other cases shall be made under subsection (a) [of this section]. The physicians making the determination of death shall not participate in the procedures for removing or transplanting a part, or in the care of any recipient.

(d) All death determinations in the State shall be made pursuant to this section and shall apply to all purposes, including but not limited to civil and criminal actions, any laws to the contrary notwithstanding[.]; provided that presumptive deaths under the Uniform Probate Code shall not be affected by this section.

(e) The director of health [shall] may convene in every odd-numbered year, a committee which shall be composed of representatives of appropriate general and specialized medical professional organizations, licensed attorneys, and members of the public. The committee shall review medical practice, legal developments, and other appropriate matters to determine the continuing viability of this section, and shall submit a report of its findings and recommendations to the legislature, prior to the convening of the regular session held in each even-numbered year.”

SECTION 2. Section 339-3, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§339-3]]~~ **Duties of the director.** (a) The director shall:

- (1) Be responsible for the study of available research in the field of litter control, prevention, removal, disposal, and recycling; the study of methods for the implementation of such research; and development of public educational programs[.];
- (2) Serve as a coordinator between the State, state agencies, and various organizations seeking to aid in the antilitter effort[.];
- (3) Cooperate with local governments to accomplish the coordination of antilitter efforts[.]; and
- (4) Encourage voluntary local antilitter campaigns.

(b) The director may:

- ~~[(5)]~~ (1) Apply for funds or other resources available from private or public sources[.];
- ~~[(6)]~~ (2) Conduct educational programs intended to instill the antilitter ethic[.];
- ~~[(7)]~~ (3) Design a state antilitter symbol[.];
- ~~[(8)]~~ (4) Post antilitter signs in public places where required[.]; and
- ~~[(9)]~~ (5) Design and make available a litter bag bearing the state antilitter symbol and a statement of the penalties prescribed herein for littering.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

A Bill for an Act Relating to Telehealth.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that telehealth is a useful and powerful tool to efficiently access health services. It is especially useful for rural and medically underserved areas because it allows health care professionals to provide care and expertise to those who are not in the same location. Telehealth is the use of

telecommunications and information technology to deliver health and health care services and information to parties separated by distance.

Telehealth is not a benefit, or a treatment modality. Rather, it is an enabling process through which delivery of timely access to care is supported. Examples of telehealth applications in Hawaii include:

- (1) Maui Memorial Hospital's angiogram transmission to Straub and Queen's medical facilities on Oahu;
- (2) X-ray transmissions from Kamuela, Hawaii, to Oahu;
- (3) Emergency room consultation service between Molokai General Hospital and Queen's Medical Center on Oahu;
- (4) Telehealth facilities under construction next to Hilo Medical Center; and
- (5) Telehealth facilities at Saint Francis Dialysis Center on Kauai.

Telehealth will reduce health care costs for our citizens because it can minimize the cost of travel to a different island for medical care. For example, those directed by their clinician to travel to another island for health care need to consider not only transportation costs, but also baby-sitting costs for children, the costs of having a family member accompany the person seeking health care, and possible hotel costs while on the other island. Some residents are not able to afford these costs, and thus, do not receive the health care they require.

Telehealth may help correct this problem by allowing those who do not have the means to travel, to access health care expertise through telecommunications at the location where they live. Telehealth offers improved access to health care, improved quality of care, better continuity of care, and provisions for more ongoing care, if necessary. Telehealth benefits patients, providers, insurers, and our society as a whole.

Telehealth is also useful for preventive health care such as ruling out diabetic retinopathy to prevent blindness. Before telehealth, the picture of the inside of a patient's eye (retina) was sent to a specialist via the postal system and took between two to three days to reach the specialist for diagnostic review. With telehealth, the patient's doctor can transmit the picture to the specialist who can review the picture and immediately render a diagnosis. If necessary, the patient's doctor can begin treatment immediately. The patient remains close to home, and receives quality and timely health care.

Telehealth is effective in emergency room stabilization cases. For example, a Hawaii resident was seen in a Maui county emergency room experiencing severe abdominal pain. The Maui county clinicians considered transporting the patient to Oahu at great patient expense. Instead, the clinicians used telehealth to remotely assess the patient. With the help of an Oahu-based specialist, the patient was stabilized in the Maui county hospital, and flew the next day to Oahu via a commercial airplane flight instead of an air ambulance. An air ambulance would have cost the patient between \$4,000-\$8,000. Telehealth also facilitated the necessary preparation work to simplify the patient's admission to the Oahu hospital.

Telehealth can enhance rural hospitals' coverage by offering health care services on a twenty-four hour basis. This improves the financial stability of rural hospitals by allowing them to retain more patients and keep the health care dollars in the local areas.

Telehealth allows health care professionals who are not in the same room as the patient to assess, diagnose, consult, supervise, educate, treat, or conduct case management. Telehealth has the potential to reduce costs, improve quality of care, and improve access to care.

Consumers will benefit from telehealth because it allows expanded access to primary care physicians and specialists, and other health professionals such as nurse practitioners, physician assistants, and therapists. Hawaii citizens will experience

timely access to care and more convenient treatment, better continuity of care, and a reduction in the amount of lost work time and travel costs to obtain health care because of telehealth. Telehealth is especially useful in Hawaii because the State is made up of a chain of islands and travel between islands is not always feasible or necessary for health care. In particular, those who have limited access to transportation such as Hawaii's senior citizens or disabled individuals may receive health services in their homes or in a nearby health facility.

Telehealth has been used in one form or another for thirty years. Telehealth projects currently exist in at least forty states.

The purpose of this Act is to reduce the barriers to and expand the use of telehealth.

SECTION 2. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to part I of article 10A to be appropriately designated and to read as follows:

**“§431:10A- Telehealth.** (a) It is the intent of the legislature to recognize the application of telehealth as a reimbursable service by which an individual shall receive medical services from a health care provider without face-to-face contact with the provider.

(b) For the purposes of this section, “telehealth” means the use of telecommunications services, as defined in section 269-1, and enhanced services to deliver health and health care services and information to parties separated by distance. Standard telephone, facsimile transmissions, or both in the absence of other integrated information and data, do not constitute telehealth services.

(c) From July 1, 1998, no accident and sickness insurance plan that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the insurer, and the provider.”

SECTION 3. Chapter 432, Hawaii Revised Statutes, is amended by adding a new section to article 1 to be appropriately designated and to read as follows:

**“§432:1- Telehealth.** (a) It is the intent of the legislature to recognize the application of telehealth as a reimbursable service by which an individual shall receive medical services from a health care provider without face-to-face contact with the provider.

(b) For the purposes of this section, “telehealth” means the use of telecommunications services, as defined in section 269-1, and enhanced services to deliver health and health care services and information to parties separated by distance. Standard telephone, facsimile transmissions, or both in the absence of other integrated information and data, do not constitute telehealth services.

(c) From July 1, 1998, no mutual benefit society plan that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the mutual benefit society, and the provider.”

SECTION 4. Chapter 432D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§432D- Telehealth.** (a) It is the intent of the legislature to recognize the application of telehealth as a reimbursable service by which an individual shall receive medical services from a health care provider without face-to-face contact with the provider.

(b) For the purposes of this section, “telehealth” means the use of telecommunications services, as defined in section 269-1, and enhanced services to deliver health and health care services and information to parties separated by distance. Standard telephone, facsimile transmissions, or both in the absence of other integrated information and data, do not constitute telehealth services.

(c) From July 1, 1998, no health maintenance organization plan that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the health maintenance organization, and the provider.”

SECTION 5. Nothing in this Act shall preclude any health professional, within the scope of the health professional’s practice, from employing the technology of telehealth within the health professional’s practice. Such action shall not be interpreted as practicing medicine without a license.

SECTION 6. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect on July 1, 1998.

(Approved July 20, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 279**

H.B. NO. 2855

A Bill for an Act Relating to Nurse Midwives.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to repeal the provisions in chapter 321, Hawaii Revised Statutes, relating to nurse midwives, effective January 31, 1999. Nurse midwives shall be required to be recognized as advanced practice registered nurses under chapter 457, Hawaii Revised Statutes.

SECTION 2. Section 457-8.5, Hawaii Revised Statutes, is amended to read as follows:

**“§457-8.5 Advanced practice registered nurse; qualifications; recognition; endorsement; fees.** (a) The board shall grant recognition as an advanced practice registered nurse; provided the nurse has:

(1) A current, unencumbered license as a registered nurse in this State;

- (2) An unencumbered license as a registered nurse in all other states in which the nurse [is licensed; and] has a current and active license;
- (3) A master's degree in nursing as specified in rules adopted by the board or a current certification for specialized and advanced nursing practice from a national certifying body recognized by the board; provided that certified nurse midwives shall have current certification from a national certifying body recognized by the board; and
- (4) Paid appropriate fees.

(b) The board shall grant recognition as an advanced practice registered nurse to a certified nurse midwife who meets the requirements of subsection (a).

[(b)] (c) Any person who has been recognized by the board as an advanced practice registered nurse shall use the title "Advanced Practice Registered Nurse" and the abbreviation "A.P.R.N.," or specialty title and abbreviation in accordance with rules adopted by the board. No other person shall assume the title "nurse" or in any manner imply that the person is a nurse except as provided in sections 457-7 and 457-8 or use the abbreviation "A.P.R.N." or any other words, letter, sign, or device to indicate that the person using the same is an advanced practice registered nurse."

SECTION 3. Part XXXI of chapter 321, Hawaii Revised Statutes, is repealed.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval; provided that section 2 shall take effect on January 31, 1999.

(Approved July 20, 1998.)

**ACT 280**

H.B. NO. 2866

A Bill for an Act Relating to Employment on Public Works Projects.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 104-3, Hawaii Revised Statutes, is amended to read as follows:

**“§104-3 Payrolls and payroll records.** (a) Every such contract and the specifications for such contract shall contain a provision that a certified copy of all payrolls shall be submitted weekly to the governmental contracting agency[.] for review. The general contractor shall be responsible for the submission of certified copies of the payrolls of all subcontractors. The certification shall affirm that the payrolls are correct and complete, that the wage rates contained therein are not less than the applicable rates contained in the wage determination decision of the director of labor and industrial relations attached to the contract, and that the classifications set forth for each laborer or mechanic conform with the work the laborer or mechanic performed. Any certification discrepancy found by the contracting agency shall be reported to the general contractor and the director to effect compliance.

(b) Payroll records for all laborers and mechanics working at the site of the work shall be maintained by the general contractor and the general contractor's subcontractors, if any, during the course of the work and preserved for a period of three years thereafter. The records shall contain the name of each employee, the



employee's correct classification, rate of pay, daily and weekly number of hours worked, deductions made and actual wages paid. [The records shall be made available for inspection by the governmental contracting agency, director, and any authorized representatives thereof who may also interview employees during working hours on the job.]

(c) The contractor shall make payroll records available for examination within ten days from the date of a written request by a governmental contracting agency, director, or any authorized representatives thereof. Any contractor who:

- (1) Fails to make payroll records accessible within ten days;
  - (2) Fails to provide information requested for the proper enforcement of this chapter within ten days; or
  - (3) Fails to keep or falsifies any record required under this chapter,
- shall be assessed a penalty as provided in section 104-22(b)."

SECTION 2. Section 104-22, Hawaii Revised Statutes, is amended to read as follows:

**“§104-22 Investigation[.]; penalties.** (a) The department may conduct investigations to determine compliance with this chapter. The department may enter the job site, [inspect books and] examine records of any contractor, either during or after the performance of any contract, or subpoena the [books and] records. The department may also interview employees during working hours on the job.

(b) If any contractor interferes with or [wilfully evades] delays any investigation [or inspection] by the department, the governmental contracting agency, on receipt of written notice from the director of the interference or [wilful evasion,] delay, shall withhold from the contractor all further payments until the director has notified the governmental contracting agency in writing that the interference or [wilful evasion] delay has ceased. Interference or delay includes failure to provide requested records under section 104-3; failure to allow employees to be interviewed during working hours on the job; and falsification of records required under this chapter. The department shall assess a penalty of \$1,000 per project for interference or delay. For each day thereafter that the employer fails to cooperate, the director shall assess a penalty of \$100 per project.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

## ACT 281

H.B. NO. 2870

A Bill for an Act Relating to Workers' Compensation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 386-51.5, Hawaii Revised Statutes, is amended to read as follows:

**“[[§386-51.5]] Limited liability in concurrent employment.** Where an employee is concurrently engaged in more than one employment covered by this chapter and sustains a personal injury in one employment under conditions specified

**ACT 282**

in section 386-3, the liability of the employer shall be limited to the benefits as would be payable had the employee no other employment than the one in which the employee was injured[; provided that if the employment in which the employee sustained the injury is a part-time employment, the employer's liability shall be limited to the benefits as would be payable to an employee in a comparable employment, engaged as a full-time employee on an annual basis in the type of employment in which the injury occurred]. The balance of the employee's benefits shall be paid from the special compensation fund, except that benefits for disability rated as a percentage of total impairment of physical or mental function of the whole person shall be the sole liability of the employer."

SECTION 2. Statutory material to be repealed is bracketed.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**ACT 282**

H.B. NO. 2872

A Bill for an Act Relating to Fire Protection Inspections.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 132-6, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The inspection shall be made at least once each year at all public schools, and every two years, or as often as deemed practicable or necessary by the county fire chief, at all other facilities within the jurisdiction of the county fire chief, and not less than once in six months within the fire limits or the congested districts subject to conflagration, as the county council or other proper legislative body shall designate, and oftener as the county fire chief may determine]. The State shall conduct fire and safety inspections at all State owned airport facilities at least once a year."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**ACT 283**

H.B. NO. 2888

A Bill for an Act Making an Appropriation for Compensation of Criminal Injuries.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,187,475, or so much thereof as may be necessary, for fiscal year 1998-1999, for the purpose of compensating certain persons or their providers of services pursuant to chapter 351, Hawaii Revised Statutes.

SECTION 2. The sum appropriated shall be deposited in the criminal injuries compensation fund to be used for payments as authorized by the criminal injuries compensation commission. The sum appropriated shall be expended by the department of public safety for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 1998.

(Approved July 20, 1998.)

## ACT 284

H.B. NO. 2892

A Bill for an Act Relating to Special Facility Revenue Bonds for Airports.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 261-52, Hawaii Revised Statutes, is amended to read as follows:

**“§261-52 Powers.** In addition and supplemental to the powers granted to the department by law, the department may:

- (1) With the approval of the governor, and without public bidding, enter into a special facility lease or an amendment or supplement thereto whereby the department agrees to construct, acquire, or remodel and furnish or equip a special facility solely for the use by [such other] another person to a special facility lease[.];
- (2) With the approval of the governor, issue special facility revenue bonds in [such] principal amounts [as] that may be necessary to yield the amount of the cost of any construction, acquisition, remodeling, furnishing, and equipping of any special facility, including the costs of acquisition of the site thereof; provided that the total principal amount of the special facility revenue bonds which may be issued pursuant to the authorization of this paragraph shall not exceed [\$100,000,000;] \$200,000,000; provided that these funds not be expended on nonpublic air facilities[.];
- (3) With the approval of the governor, issue refunding special facility revenue bonds with which to provide for the payment of outstanding special facility revenue bonds (including any special facility revenue bonds theretofore issued for this purpose) or any part thereof; provided any issuance of refunding special facility revenue bonds shall not reduce the principal amount of the bonds which may be issued as provided in paragraph (2);
- [(3)] (4) Perform and carry out the terms and provisions of any special facility lease[.];
- [(4)] (5) Notwithstanding section 103-7 or any other law to the contrary, acquire, construct, or remodel and furnish or equip any special facility, or accept the assignment of any contract therefor entered into by the other person to the special facility lease[.];
- [(5)] (6) Construct any special facility on land owned by the State; provided that no funds derived herein will be expended for land acquisition[.]; and
- [(6)] (7) Agree with the other person to the special facility lease whereby any acquisition, construction, remodeling, furnishing, or equipping of the special facility and the expenditure of moneys therefor shall be under-

taken or supervised by [such other] another person. Neither [such] the undertaking by [such] the other person nor the acceptance by the department of a contract theretofore entered into by [such] the other person therefor, shall be subject to chapter 103D.”

SECTION 2. Section 261-54, Hawaii Revised Statutes, is amended to read as follows:

“**[§261-54] Special facility lease.** (a) In addition to the conditions and terms set forth in this part, any special facility lease entered into by the department shall at least contain provisions obligating the other person to the special facility lease:

- (1) To pay to the department during the initial term of the special facility lease, whether the special facility is capable of being used or occupied or is being used or occupied by the other person, a rental or rentals at [such] the time or times and in [such] the amount or amounts that will be sufficient: to pay the principal and interest on all special facility revenue bonds issued for the special facility, to establish or maintain any reserves for [such] these payments, and to pay all fees and expenses of the trustees, paying agents, transfer agents, and other fiscal agents for the special facility revenue bonds issued for the special facility[.];
- (2) To pay to the department [a]:
  - (A) A ground rental, equal to the fair market rental of the land, if the land on which the special facility is located was not acquired from the proceeds of the special facility revenue bonds; or [to pay to the department a]
  - (B) A properly allocable share of the administrative costs of the department in carrying out the special facility lease and administering the special facility revenue bonds issued for the special facility, if the land was acquired from the proceeds of the special facility revenue bonds[.];
- (3) To either operate, maintain, and repair [such] the special facility and pay the costs thereof or to pay to the department all costs of operation, maintenance, and repair of the special facility[.];
- (4) To:
  - (A) Insure, or cause to be insured, the special facility under builder’s risk insurance (or similar insurance) in the amount of the cost of construction of the special facility to be financed from the proceeds of the special facility revenue bonds;
  - (B) Procure and maintain, or cause to be procured or maintained, to the extent commercially available, a comprehensive insurance policy providing protection and insuring the department and its officers, agents, servants, and employees (and so long as special facility revenue bonds are outstanding, the trustee) against all direct or contingent loss or liability for damages for personal injury or death or damage to property, including loss of use thereof, occurring on or in any way related to the special facility or occasioned by reason of occupancy by and the operations of the other person upon, in, and around the special facility;
  - (C) Provide all risk casualty insurance, including insurance against loss or damage by fire, lightning, flood, earthquake, typhoon, or hurricane, with standard extended coverage and standard vandalism and other malicious mischief endorsements; and

- (D) Provide insurance for workers' compensation, employer's liability, and aircraft liability (including passenger liability) for personal injury or death or damage to property (the other party may self-insure for workers' compensation if permitted by law); provided that all policies with respect to loss or damage of property including fire or other casualty and extended coverage and builder's risk shall provide for payments of the losses to the department, the other person, or the trustee as their respective interests may appear; and provided further that the insurance may be procured and maintained as part of or in conjunction with other policies carried by the other person; and provided further that the insurance shall name the department, and so long as any special facility revenue bonds are outstanding, the trustee, as additional insured; and
- (5) To indemnify, save, and hold the department, the trustee and their respective agents, officers, members, and employees harmless from and against all claims and actions and all costs and expenses incidental to the investigation and defense thereof, by or on behalf of any person, firm, or corporation, based upon or arising out of the special facility or the other person's use and occupancy thereof, including, without limitation, from and against all claims and actions based upon and arising from any:
- (A) Condition of the special facility;
- (B) Breach or default on the part of the other person in the performance of any of the person's obligations under the special facility lease;
- (C) Fault or act of negligence of the other person or the person's agents, contractors, servants, employees, or licensees; or
- (D) Accident to or injury or death of any person or loss of or damage to any property occurring in or about the special facility, including any claims or actions based upon or arising by reason of the negligence or any act of the other person.

Any moneys received by the department pursuant to [subsections (a)(2) and (a)(3) of this section] paragraphs (2) and (3) shall be paid into the airport revenue fund and shall not be nor be deemed to be revenues of the special facility.

(b) The term and all renewals and extensions of the term of any special facility lease (including any amendments or supplements thereto) shall not extend beyond the lesser of the reasonable life of the special facility which is the subject of [such] the special facility lease, as estimated by the department at the time of the entering into thereof, or thirty years.

(c) Any special facility lease entered into by the department shall be subject to chapter 171 and shall contain [such] any other terms and conditions [as] that the department deems advisable to effectuate the purposes of this part.”

SECTION 3. Section 261-55, Hawaii Revised Statutes, is amended to read as follows:

“**§261-55 Special facility revenue bonds.** All special facility revenue bonds authorized to be issued shall be issued pursuant to [the provisions of sections 39-51 to 39-70,] part III of chapter 39, except as follows:

- (1) No [such] revenue bonds shall be issued unless at the time of issuance the department shall have entered into a special facility lease with respect to the special facility for which [such] the revenue bonds are to be issued[.];

- (2) [Such] The revenue bonds shall be issued in the name of the department, and not in the name of the State[.];
- (3) No further authorization of the legislature shall be required for the issuance of the special facility revenue bonds, but the approval of the governor shall be required for [such] the issuance[.];
- (4) [Such] The revenue bonds shall be payable solely from and secured solely by the revenues derived by the department from the special facility for which they are issued[.];
- (5) The final maturity date of [such] the revenue bonds shall not be later than either the estimated life of the special facility for which they are issued or the initial term of the special facility lease[.];
- (6) If deemed necessary or advisable by the department, or to permit the obligations of the other person to the special facility lease to be registered under the U.S. Securities Act of 1933, the department with the approval of the state director of finance may appoint a national or state bank within or without the State to serve as trustee for the holders of the revenue bonds and may enter into a trust indenture or trust agreement with [such] the trustee. The trustee may be authorized by the department to collect, hold, and administer the revenues derived from the special facility for which the revenue bonds are issued and to apply [such] the revenues to the payment of the principal and interest on [such] the revenue bonds. In the event that any [such] trustee shall be appointed, any trust indenture or agreement entered into by the department with the trustee may contain the covenants and provisions authorized by [sections 39-51 to 39-70] part III of chapter 39 to be inserted in a resolution adopted or certificate issued, as though the words "resolution" or "certificate" as used in [those sections] that part read "trust indenture or agreement". [Such] The covenants and provisions shall not be required to be included in the resolution or certificate authorizing the issuance of the revenue bonds if included in the trust agreement or indenture. Any resolution or certificate, trust indenture or trust agreement adopted, issued, or entered into by the department pursuant to this part may also contain any provisions required for the qualification thereof under the U.S. Trust Indenture Act of 1939. The department may pledge and assign to the trustee the special facility lease and the rights of the department including the revenues thereunder[.];
- (7) If the department with the approval of the state director of finance shall have appointed or shall appoint a trustee for the holders of the revenue bonds, then notwithstanding the provisions of the second sentence of section [[]39-68[)] the director of finance may elect not to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption, of the revenue bonds, or may elect to limit the functions the director of finance shall perform as [such] the fiscal agent. The department with the approval of the director of finance may appoint the trustee to serve as [such] the fiscal agent, and may authorize and empower the trustee to perform [such] the functions with respect to [such] payment, purchase, registration, transfer, exchange, and redemption, [as] that the department may deem necessary, advisable, or expedient, including, without limitation, the holding of the revenue bonds and coupons which have been paid and the supervision and conduction of the destruction thereof in accordance with [the provisions of] sections 40-10 and 40-11. Nothing in this paragraph shall be a limitation upon or construed as a limitation upon the powers granted in the preceding paragraph to the

department with the approval of the director of finance to appoint the trustee, or granted in sections 36-3 and [[39-13]] and the third sentence of section [[39-68]] to the director of finance to appoint the trustee or others, as fiscal agents, paying agents, and registrars for the revenue bonds or to authorize and empower [such] the fiscal agents, paying agents, and registrars to perform the functions referred to in [said] that paragraph and sections, it being the intent of this paragraph to confirm that the director of finance as aforesaid may elect not to serve as fiscal agent for the revenue bonds or may elect to limit the functions the director of finance shall perform as [such] the fiscal agent, [as] that the director of finance may deem necessary, advisable, or expedient[.];

- (8) The department may sell [such] the revenue bonds either at public or private sale[.];
- (9) If no trustee shall be appointed to collect, hold, and administer the revenues derived from the special facility for which [such] the revenue bonds are issued, [such] the revenues shall be held in a separate account in the treasury of the State, separate and apart from the airport revenue fund, to be applied solely to the carrying out of the resolution, certificate, trust indenture, or trust agreement authorizing or securing [such] the revenue bonds[.];
- (10) If the resolution, certificate, trust indenture, or trust agreement shall provide that no revenue bonds issued thereunder shall be valid or obligatory for any purpose unless certified or authenticated by the trustee for the holders of [such] the revenue bonds, signatures of the officers of the State upon [such] the bonds required by section [[39-56]] may be facsimiles of their signatures[.];
- (11) Proceeds of [such] the revenue bonds may be used and applied by the department to reimburse the other person to the special facility lease for all preliminary costs and expenses, including architectural and legal costs[.]; and
- (12) If the special facility lease shall require the other person to operate, maintain, and repair the special facility which is the subject of [such] the lease, at the other person's expense, [such] the requirement shall constitute compliance by the department with section [[39-61(a)(2)]]], and none of the revenues derived by the department from [such] the special facility shall be required to be applied to the purposes of section [[39-62(2)]]. Sections [[39-62(4)]]], [[39-62(5)]]], and [[39-62(6)]]] shall not be applicable to the revenues derived from a special facility lease."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

A Bill for an Act Making an Appropriation for Agricultural Research and Development.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that agriculture is one of the State's most important industries and a vital component of the State's economic base. The legislature also finds that Hawaii's agriculture industry has become increasingly diverse with new economic opportunities as the sugar and pineapple industries have become smaller. Although the sugar and pineapple industries no longer predominate the agriculture industry, they remain among the leading producers of tangible exports and will continue to be important contributors to Hawaii's diversified agriculture industry. To maximize the opportunities for maintaining and expanding the agriculture industry and to take best advantage of the thousands of acres of prime farm land formerly in sugarcane, production-driven research is paramount.

The legislature further finds that the Hawaii Agriculture Research Center (formerly, Hawaiian Sugar Planters' Association) has effectively filled this research role for the sugar industry for more than a century. The Hawaii Agriculture Research Center (HARC) serves as a model of private-public partnerships for agricultural research and, further, it effectively joins with the University of Hawaii college of tropical agriculture and human resources in facilitating agricultural technology transfer and in maximizing the use of limited community resources. Most of HARC's funding comes from the private sector, which increases the returns on the State's funding, benefitting farm production and the local economy.

The legislature also finds that HARC has been directing its research primarily to crops that have received direct financial support such as coffee, papaya, sugarcane, and forestry. HARC seeks to help increase commercial production through crop improvement programs focusing on improving cultural practices and producing superior planting material through plant breeding and selection. Agricultural research at HARC will continue to be a key resource in the State's efforts to strengthen and improve the agriculture industry, revitalize the economy, and maintain and create employment opportunities for residents, especially in rural areas.

The purpose of this Act is to provide the necessary funds to assist in maintaining current minimum levels of agricultural research at HARC.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$750,000 or so much thereof as may be necessary for fiscal year 1998-1999 for agricultural research and development to be performed by the Hawaii Agriculture Research Center; provided that:

- (1) No research funds for specific agricultural commodities with annual statewide crop sales of \$20,000,000 or greater, based on the most recent statistics available from the department of agriculture, shall be expended unless matched on a dollar-for-dollar basis;
- (2) No funds for agricultural research for other agricultural commodities shall be expended unless matched on the basis of \$3 from the State for each dollar from the private sector; and
- (3) Except that up to \$200,000 per year may be released unmatched for nonsugarcane-related agricultural research, development, and services.

SECTION 3. The sum appropriated shall be expended by the department of agriculture for the purposes of this Act.



SECTION 4. This Act shall take effect on July 1, 1998.

(Approved July 20, 1998.)

## ACT 286

H.B. NO. 2932

A Bill for an Act Relating to Nuisance Abatement.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Part V of Chapter 712, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§712- Injunctions against persons.** Nothing in this part shall be construed to prohibit injunctions against persons causing a nuisance from entering or residing in any public or private building, premises, or place, in or upon which the nuisance exists.”

SECTION 2. Section 712-1271, Hawaii Revised Statutes, is amended to read as follows:

**“§712-1271 Suit to abate.** (a) Whenever there is reason to believe that a nuisance as defined in this chapter is in existence, kept, or maintained in any county, the attorney general of the State or the prosecutor or prosecuting attorney of the respective counties shall, or any citizen of the State residing within such county may in the citizen’s own name, or any organization, including, but not limited to a tenant organization within such county may in the organization’s own name, maintain a suit to abate and prevent [such] the nuisance and to perpetually enjoin the person or persons causing the nuisance, or the owner, lessee, or agent of the building, premises, or place in or upon which the nuisance exists from directly or indirectly causing, maintaining, or permitting the nuisance.

(b) No action authorized under this part which seeks to abate or prevent a nuisance shall be filed or maintained against the State or any political subdivision thereof.”

SECTION 3. Section 712-1273, Hawaii Revised Statutes, is amended to read as follows:

**“§712-1273 Suit to have precedence.** The suit when brought shall have precedence over all cases, excepting criminal proceedings, election contests, and hearings on injunctions, and in [such] the suit evidence of the general reputation of the building, premises, [or] place, or persons shall be admissible for the purpose of proving the existence of the nuisance.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

### Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Sentencing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 286-30, Hawaii Revised Statutes, is amended to read as follows:

**“§286-30 False certificates.** Any person who makes, issues, or knowingly uses any imitation or counterfeit of an official certificate of inspection, or any person who displays or causes or permits to be displayed upon any vehicle any certificate of inspection knowing the same to be issued for another vehicle or issued without an inspection having been made or issued without authority as provided herein shall be fined not more than \$1,000 or imprisoned not more than [one year,] thirty days, or both.”

SECTION 2. Section 291-2, Hawaii Revised Statutes, is amended to read as follows:

**“§291-2 Reckless driving of vehicle or riding of animals; penalty.** Whoever operates any vehicle or rides any animal recklessly in disregard of the safety of persons or property is guilty of reckless driving of vehicle or reckless riding of an animal, as appropriate, and shall be fined not more than \$1,000 or imprisoned not more than [one year] thirty days, or both.”

SECTION 3. Section 291-3.1, Hawaii Revised Statutes, is amended to read as follows:

**“§291-3.1 Consuming or possessing intoxicating liquor while operating motor vehicle or moped.** (a) No person shall consume any intoxicating liquor while operating a motor vehicle or moped upon any public street, road, or highway.

(b) No person shall possess, while operating a motor vehicle or moped upon any public street, road, or highway, any bottle, can, or other receptacle containing any intoxicating liquor which has been opened, or a seal broken, or the contents of which have been partially removed.

(c) This section shall not apply to the living quarters of a trailer or camper.

(d) Any person violating this section shall be [guilty of a misdemeanor.] fined not more than \$2,000 or imprisoned not more than thirty days, or both.”

SECTION 4. Section 291-12, Hawaii Revised Statutes, is amended to read as follows:

**“§291-12 Inattention to driving.** Whoever operates any vehicle without due care or in a manner as to cause a collision with, or injury or damage to, as the case may be, any person, vehicle or other property shall be fined not more than \$500 or imprisoned not more than [six months,] thirty days, or both.”

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

## ACT 288

H.B. NO. 2957

A Bill for an Act Relating to Hunting Licenses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 183D-24, Hawaii Revised Statutes, is amended to read as follows:

**“§183D-24 Duplicate licenses.** Duplicate licenses may be issued upon application stating under oath that the original license has been lost or destroyed and upon payment of a fee of [50 cents.] fifty per cent of the current cost of a resident license as provided in section 183D-22(b)(1).”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

## ACT 289

H.B. NO. 2985

A Bill for an Act Relating to Irrigation and Water Utilization Projects.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 168-2, Hawaii Revised Statutes, is amended to read as follows:

**“[[§168-2]] Powers.** In addition to any other powers conferred upon the board of agriculture, the board shall have the powers hereinafter set forth. The board shall have the power to make preliminary surveys and engineering studies, and to construct irrigation and water utilization projects, designed to serve and supply the owners and occupants of lands, and to manage, control, operate, and maintain the projects in accordance with this chapter. If, in the board’s reasonable discretion, existing civil service staff is inadequate to service the projects or the project facilities, the board shall also have the power to contract for services with the private sector for operation or maintenance of project facilities with any qualified person. It shall also have the power to contract with domestic water users including the counties. It shall further have the power to contract with the government of the United States or any bureau or agency thereof with regard to the construction or the financing of a system.

The board shall have power to fix, charge, and collect reasonable water rates for service from the water system to defray the cost of operation, maintenance, and replacements of the system. It shall also have the power to acquire by eminent domain, water and water sources either above or underground watersheds, reservoir sites, rights-of-way over lands and property for paths, trails, roads, and landing sites, ditches, tunnels, flumes, reservoirs, and pipelines necessary or proper for the construction and maintenance of a system for conveying, distributing, and transmitting water for irrigation and domestic use and for such other purposes as may properly fall within the scope of its activities in creating, managing, controlling, operating, and maintaining an irrigation and water utilization system. The power of

eminent domain shall be exercised in the manner and under the procedure provided by law.”

SECTION 2. Section 168-5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§168-5]]~~ **Irrigation systems account.** (a) There shall be a special account in the irrigation system revolving fund of the board of agriculture to be known as the “irrigation systems account”. The director of finance may make temporary use of any portion or all of the money not immediately needed for construction and operation of an irrigation system for the purpose of paying warrants drawn on the treasury for current indebtedness of the State, or for deposit in the state sinking fund for the repayment of bonds, or for investment in state bonds; provided that sufficient of the sums so taken, deposited or invested shall be redeposited to the credit of the irrigation systems account prior to the time when any engagement for the payment from the account falls due.

The moneys from the account shall be expended upon warrants drawn by the comptroller for the purposes of this chapter.

(b) In connection with the construction, [or] operation, or maintenance of a project, the board may [utilize] use such contributions of labor, materials, and property, including money, as may be allocated or otherwise made available by any person or instrumentality whatsoever, if in the judgment of the board the acceptance thereof, will not limit the scope of construction or operation of a project provided for by this chapter.

(c) Money received and accepted under this section shall be available for expenditure for the purposes for which contributed in like manner as if the sums had been specifically appropriated for such purposes.

(d) Any provision of this chapter or any other state law to the contrary notwithstanding, it is expressly provided that, in the event that it is found possible to secure federal funds made available under any act of Congress to be expended in connection with or for the construction of a project authorized by this chapter, the board may enter into such undertakings with the proper officers or agencies of the federal government, agree to such conditions, and do and perform such other acts and things as may be necessary, or be required by such acts of Congress or any regulations or requirements of the federal government, as a condition to securing the federal funds for the project.

(e) Any other provision of law to the contrary notwithstanding, any bonds issued under this chapter may, with the approval of the governor, be deposited with and pledged to, or be otherwise disposed of to, the United States or any board, agency, or instrumentality of the United States government, to secure the repayment, or in actual payment, of any loans or advances made or to be made, under any act or acts of Congress authorizing the loans or advances, by the United States or any such board, agency, or instrumentality to the State for the construction, in whole or in part, of a project authorized under this chapter or the cost of which, or any portion thereof, would be payable or could legally be paid, out of the proceeds of the bonds if sold.

(f) Any other provision of law to the contrary notwithstanding, the board may use moneys from the irrigation system account to contract for operation or maintenance of the project facilities if the board deems such action to be in the public interests.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

## ACT 290

H.B. NO. 2992

A Bill for an Act Relating to Notaries Public.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 456, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§456- Notaries public revolving fund.** (a) There is established in the state treasury the notaries public revolving fund into which shall be deposited:

- (1) All fees, charges, or other payments received pursuant to section 456-9;
- (2) Penalties and fines for violations of section 456-3, 456-7, or 456-16;
- (3) Appropriations made for deposit into the notaries public revolving fund; and
- (4) Interest earned on money in the notaries public revolving fund.

(b) The notaries public revolving fund shall be administered by the department of the attorney general. Notwithstanding any law to the contrary, moneys in the notaries public revolving fund shall be used for personnel costs, the acquisition of equipment, and operating and administrative costs deemed necessary by the department of the attorney general to administer this chapter. The moneys in the fund may also be used to train personnel as the attorney general deems necessary, and for any other activity related to notaries public.”

SECTION 2. Section 456-1, Hawaii Revised Statutes, is amended to read as follows:

**“§456-1 Appointment; [tenure.] renewal.** (a) The attorney general may, in the attorney general’s discretion, appoint and commission such number of notaries public for the State as the attorney general deems necessary for the public good and convenience. The term of office of a notary public shall be four years from the date of the notary’s commission, unless sooner removed by the attorney general for cause after due hearing; provided that after due hearing the commission of a notary public may be revoked or otherwise disciplined by the attorney general in any case where any change occurs in the notary’s office, occupation, residence, or employment which in the attorney general’s judgment renders the holding of such commission by the notary no longer necessary for the public good and convenience. Each notary shall, upon any change in the notary’s office, occupation, residence, or employment, forthwith report the same to the attorney general.

(b) Each notary public shall be responsible for renewing the notary public’s commission on a timely basis and satisfying the renewal requirements provided by law. The failure to renew a commission in a timely manner may cause the commission to be forfeited, if the attorney general finds that the failure was done knowingly; provided that a forfeited commission may be restored by the attorney general within one year after the date of forfeiture upon compliance with the commission renewal requirements provided by law and upon written application and payment of all applicable fees.”

SECTION 3. Section 456-3, Hawaii Revised Statutes, is amended to read as follows:

“**§456-3 Seal.** Every notary public shall constantly keep an engraved seal of office or a rubber stamp facsimile seal which shall clearly show, when embossed, stamped, or impressed upon a document, the notary’s name, and the words, “notary public” and “State of Hawaii.” The notary public shall authenticate all the notary’s official acts, attestations, certificates, and instruments therewith, and shall always add to an official signature the typed or printed name of the notary and a statement showing the date that the notary’s commission expires. Upon resignation, death, expiration of term of office without reappointment, or removal from or abandonment of office, the notary public shall immediately deliver the notary’s seal to the attorney general who shall deface or destroy the same. If any notary fails to comply with this section within ninety days of the date of the notary’s resignation, expiration of term of office without reappointment, or removal from or abandonment of office or if the notary’s personal representative fails to comply with this section within ninety days of the notary’s death, then the notary public or the notary’s personal representative shall forfeit to the State not more than \$200, in the discretion of the court, to be recovered in an action to be brought by the attorney general on behalf of the State.”

SECTION 4. Section 456-5, Hawaii Revised Statutes, is amended to read as follows:

“**§456-5 Official bond.** Each notary public forthwith and before entering upon the duties of the notary’s office shall execute, at the notary’s own expense, an official surety bond which shall be in the sum of \$1,000. Each bond shall be approved by a judge of the circuit court.

The obligee of each bond shall be the State and the condition contained therein shall be that the notary public will well, truly, and faithfully perform all the duties of the notary’s office which are then or may thereafter be required, prescribed, or defined by law or by any rule [or regulation] made under the express or implied authority of any statute, and all duties and acts undertaken, assumed, or performed by the notary public by virtue or color of the notary’s office. The surety on any such bond shall be a surety company authorized to do business in the State. After approval the bond shall be deposited and kept on file in the office of the clerk of the circuit court of the judicial circuit in which the notary public resides. The clerk shall keep a book to be called the “bond record”, in which the clerk shall record such data in respect to each of the bonds deposited and filed in the clerk’s office as the attorney general may direct.”

SECTION 5. Section 456-8, Hawaii Revised Statutes, is amended to read as follows:

“**§456-8 Rules.** The attorney general, subject to chapter 91, may prescribe such rules [and regulations] as the attorney general deems advisable concerning the administration of this chapter, the appointment and duties of notaries public, and the duties of other officers thereunder. The rules [or regulations] shall have the force and effect of law.”

SECTION 6. Section 456-9, Hawaii Revised Statutes, is amended to read as follows:

“**§456-9 Fees.** (a) The attorney general shall charge and collect the following fees for :

(1) [For issuing] Issuing the original commission, [\$35;] \$40; and

(2) [For renewal of] Renewing the commission, [\$15.] \$40.

[The clerk of each circuit court shall charge and receive the following fees:

For filing a copy of a commission, \$3;

For each certificate of authentication, \$1.]

Notwithstanding the foregoing, the attorney general may establish and adjust fees pursuant to chapter 91.

The foregoing fees collected by the attorney general shall be deposited into the notaries public revolving fund established by section 456- , except that if that fund is terminated, the foregoing fees shall thereafter be deposited with the director of finance to the credit of the general fund.

(b) The court fees for filing a copy of a commission and for each certificate of authentication shall be specified by the supreme court.”

SECTION 7. Section 456-18, Hawaii Revised Statutes, is amended to read as follows:

**“§456-18 Notaries in government service.** Except as otherwise provided for by law, the head of every department (which term as used in this chapter includes any department, board, commission, bureau, or establishment of the United States, or of the State, or any political subdivision thereof) may designate one or more of the head of every department’s subordinates to be a notary public who, upon duly qualifying and receiving a commission as a notary public in government service, shall perform, without charge, the services of a notary public in all matters of business pertaining to the State, any political subdivision thereof, or the United States.

Any provision of this chapter to the contrary notwithstanding, a subordinate so designated and thus qualified and commissioned as a notary public in government service shall:

- (1) Be authorized to perform the duties of a notary public in one or more of the judicial circuits of the State as the attorney general shall designate;
- (2) Not be required to:
  - (A) [to pay] Pay any fee to the clerk of any circuit court for filing a copy of the notary’s commission;
  - (B) [to pay] Pay any fee to the attorney general for the issuance of the notary’s commission or the renewal thereof; or
  - (C) [to furnish] Furnish and file an official bond unless [such] that bond is required by the head of the department in which the notary is a subordinate, in which event, the expense of furnishing any such bond shall be borne by the department concerned; and
- (3) Not demand or receive any fee for the notary’s service as a notary public; provided that where the occasion, in the judgment of the head of the department, is deemed one of urgent necessity and convenience, the notary may, but shall not be compelled to, administer oaths or take acknowledgments in nongovernmental matters, for which services the prescribed fees shall be demanded and received as governmental realizations and covered into the notaries public revolving fund established by section 456- , except that if that fund is terminated, the fees shall thereafter be deposited into the general fund of the State; provided further that with the prior written approval of the attorney general, the notary public, upon paying the fees prescribed by law and upon executing, depositing, and filing at the notary’s own expense, the required official bond, may demand or receive the fees prescribed by

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law for services rendered by the notary in matters not pertaining to such public business.”

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 9. This Act shall take effect on July 1, 1998.

(Approved July 20, 1998.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 291

H.B. NO. 3010

A Bill for an Act Relating to Concurrent Jurisdiction.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 1, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§1- Cession of concurrent jurisdiction.** (a) Notwithstanding the provisions of any other law, the State of Hawaii hereby cedes concurrent legislative jurisdiction to the United States over the lands and improvements located in the State presently owned or hereafter acquired, whether acquired by condemnation or otherwise, leased, occupied, or controlled by or for the United States Department of Justice, or any of its component agencies or bureaus, for correctional purposes.

(b) Cession of concurrent legislative jurisdiction, in accordance with subsection (a), shall only take effect upon the acceptance of such jurisdiction by the United States. The concurrent legislative jurisdiction so ceded shall end as to any such lands, improvements, or such portions thereof, that cease to be owned, leased, occupied, or controlled by or on behalf of the United States for correctional purposes.”

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect on July 1, 1998.

(Approved July 20, 1998.)

### Note

1. Edited pursuant to HRS §23G-16.5.

## ACT 292

H.B. NO. 3022

A Bill for an Act Relating to Youth Facility.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 151, Session Laws of Hawaii 1991, as amended by Act 61, Session Laws of Hawaii 1993, as amended by Act 112, Session Laws of Hawaii 1995, is amended by amending section 1 to read as follows:



“SECTION 1. The purpose of this Act is to exempt the [department of public safety and the] office of youth services from state and county requirements relating to planning, land use, and construction for the renovation or expansion of existing facilities or construction of minimum new facilities on [their] its property located in Kailua, Oahu.

[In 1985, the State of Hawaii entered into a consent decree with the American Civil Liberties Union (ACLU) to improve conditions at the Oahu community correctional center (OCCC) and the women’s community correctional center (WCCC). The State has substantially complied with conditions at the OCCC. However, expert monitors appointed by the United States District Court have stated that the State will not be able to comply with consent decree requirements at the WCCC because of its inadequate and deteriorated physical plant. Therefore, the department of public safety has developed plans to rebuild the WCCC at its existing site in Kailua. The legislature authorized this construction through an appropriation in Act 316, Session Laws of Hawaii 1989.

In view of the State’s good faith efforts to rebuild the WCCC, the ACLU and the court monitors have tolerated conditions at the WCCC. However, the State’s efforts have been stalled because of the city planning commission’s denial of the request for a special use permit to allow the rebuilding of the facility on Mt. Olomanā. Any challenge to this denial may cause a significant delay which is unacceptable to the ACLU and the court monitors. The ACLU, in fact, has served notice that it will petition the United States District Court for relief which may include closing down the WCCC unless the State can provide a firm plan for construction.

In order to avoid delay and possible litigation by the ACLU over this issue, the State has an alternative plan to relocate the existing women’s facility across the highway to the present Hawaii Youth Correctional Facility (HYCF) and to subsequently construct a new youth facility on the grounds of the present women’s facility. This alternative plan requires the renovation of the existing structures and the construction of new structures at both the present HYCF and WCCC facilities.

Obtaining all approvals relating to planning and/or land use reclassification would be a time-consuming and expensive process. Time, as the ACLU and court monitors have indicated, is something the State can little afford.

The legislature finds that a new WCCC is urgently needed.] A new youth correctional facility has been completed. However, the office of youth services only recently obtained funding to complete the construction and renovation of other necessary structures. The legislature authorized this construction through an appropriation in Act 328, Session Laws of Hawaii 1997. The purpose of this Act is to provide [a three-year] an exemption to the [department of public safety and the] office of youth services from planning, land use classification, and construction requirements, either state or county, otherwise applicable to the [relocation of the WCCC to the makai side of Kalanianaʻole highway, and the renovation and expansion of existing buildings and addition of other needed structures there, and the] relocation of the [HYCF] Hawaii youth correctional facility to the mauka side of Kalanianaʻole highway, and the renovation of existing buildings [and construction of other needed structures there]. In conjunction with this exemption, however, it is the intent of the legislature that the [department of public safety and the] office of youth services shall work closely with the community regarding concerns in the renovation [and expansion] of existing structures, as well as the construction of new structures, and address with sensitivity[,] the needs and aesthetic preferences of the community and the pristine appearance of Mt. Olomanā. The piggery/barn area may be renovated for existing purposes but not for other purposes.”

SECTION 2. Act 151, Session Laws of Hawaii 1991, as amended by Act 61, Session Laws of Hawaii 1993, as amended by Act 112, Session Laws of Hawaii 1995, is amended by amending sections 4 and 5 to read as follows:

“SECTION 4. For the purposes of this Act only, notwithstanding the provisions in section 205-8, Hawaii Revised Statutes, the lawful use of land or buildings for correctional purposes that qualify as nonconforming uses under section 205-8, Hawaii Revised Statutes, may continue as lawful nonconforming uses, even if a nonconforming building is replaced, reconstructed, renovated, enlarged, changed, or additional nonconforming buildings are constructed, so long as the land and buildings continue to be used for correctional purposes; provided that such use is strictly limited to the subject properties under this Act presently owned by the State of Hawaii and located in Kailua, Oahu and specifically set aside for correctional purposes; and provided further that such lawful nonconformity in use shall apply to this land only so long as the land and buildings continue to be used for correctional purposes. The [department of public safety and the] office of youth services shall advise [their] its consultants and contractors that in the design and construction of all lawful nonconforming uses, such design and construction, to the extent practicable and as long as it does not delay construction or renovation, shall blend into the pristine natural environment surrounding the [facilities] facility and be minimally intrusive, if at all, as to the surrounding communities. The [department of public safety and the] office of youth services shall submit to the legislature an annual status report regarding the [HYCF and WCCC] Hawaii youth correctional facility at least twenty days prior to the convening of each regular session which shall include:

- (1) A breakdown of the population incarcerated at [each] the facility, including the numbers of serious or violent offenders incarcerated at [each] the facility;
- (2) An assessment of [each] the facility’s ability to accommodate the numbers of serious or violent offenders committed to [each] the facility;
- (3) An assessment of the implementation of programs providing alternatives to incarceration, including whether the numbers and types of programs have been adequate to meet the needs of persons under the jurisdiction of the facility; and
- (4) All plans and designs, except for security details, for the renovation of existing structures and the building of new structures at [each] the facility, including the status of implementation and the costs of such plans, designs, and implementation.

SECTION 5. Notwithstanding any other law to the contrary, the [department of public safety and the] office of youth services shall be exempt from the necessity of obtaining any state or county approvals, permits, or licenses, including planning, land use classification, and environmental approvals which relate to the construction, improvement, use, reconstruction, renovation, [replacement,] enlargement, or relocation of buildings, facilities, or land used or to be used for correctional purposes[.]; provided that such exemption is limited to the subject properties under this Act presently owned by the State of Hawaii and located in Kailua, Oahu and specifically set aside for correctional purposes[.]; provided further that any water tank to be constructed at the base of Mt. Olomana shall not be exempt from the necessity of obtaining any state or county approvals, permits, or licenses including an environmental impact statement and shall be within the boundaries of the Hawaii youth correctional facility property. The office of youth services will work closely with the department of accounting and general services for the timely completion of planned improvements and construction of facilities.”

SECTION 3. Act 151, Session Laws of Hawaii 1991, as amended by Act 61, Session Laws of Hawaii 1993, as amended by Act 112, Session Laws of Hawaii 1995, is amended by amending section 7 to read as follows:

“SECTION 7. This Act shall take effect upon its approval; provided that no new construction or development shall be initiated at the Kailua [sites,] site, for correctional or any other purpose, after [July 1, 1998] July 1, 1999, without prior legislative approval.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on June 30, 1998.

(Approved July 20, 1998.)

## ACT 293

H.B. NO. 3027

A Bill for an Act Relating to Medicaid Overpayment Recovery.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

“**§346-A Medical overpayment recovery.** The director shall recover medicaid overpayments made to providers. Medicaid overpayments shall be recovered due to a provider’s ineligibility, noncovered service, noncovered drug, lack of prior authorization when a service requires one, incorrect payment allowance identified through any post payment review, or claims processing error. The director may recover overpayments through recoupment, tax offset under sections 231-51 to 231-59, and circuit court judgment. Nothing in this section shall limit the director’s authority to recover overpayments through all other lawful means.”

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**§346-B Enforcement of decisions regarding medicaid overpayment recovery; judgment rendered thereon.** (a) The director may file in the circuit court in the jurisdiction in which the medicaid overpayment occurred a certified copy of:

- (1) A decision of the director assessing a medicaid overpayment against a provider from which no appeal has been taken within the time allowed therefor;
- (2) A decision of the director assessing a medicaid overpayment against a provider from which an appeal has been taken but in which no order has been made by the director, the administrative appeals officer, or the court that the appeal shall operate as a supersedeas or stay;
- (3) A decision of the administrative appeals officer assessing a medicaid overpayment against a provider from which no appeal has been taken within the time allowed therefor; or
- (4) A decision of the administrative appeals officer assessing a medicaid overpayment against a provider from which an appeal has been taken but in which no order has been made by the administrative appeals

officer or the court that the appeal shall operate as a supersedeas or stay.

The court shall render a judgment in accordance with the decision and notify the parties thereof. The judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same, as though the judgment had been rendered in an action duly heard and determined by the court, except that there shall be no appeal therefrom.

(b) In all cases in which an appeal from the decision has been taken within the time provided, but in which the director, the administrative appeals officer, or the court has not issued an order that the appeal shall operate as a supersedes or stay, the decree or judgment of the circuit court shall provide that the decree or judgment shall become void if the decision or award of the director or administrative appeals officer, as the case may be is later set aside.

(c) As used in this section, the term "administrative appeals officer" means the director's designated subordinate appointed to contested case hearings pursuant to chapter 91, and this chapter."

SECTION 3. Section 231-51, Hawaii Revised Statutes, is amended to read as follows:

**“§231-51 Purpose.** The purpose of sections 231-52 to 231-59 is to permit the retention of state income tax refunds of those persons who owe a debt to the State, who are delinquent in the payment of child support, who have defaulted on an education loan note held by the United Student Aid Funds, Inc., [or] who owe federal income taxes to the United States Treasurer[.], or who receive a medicaid overpayment subject to recovery under section 346-A.”

SECTION 4. Section 231-52, Hawaii Revised Statutes, is amended by amending the definition of "debt" to read:

““Debt” includes [either]:

- (1) Any delinquency in periodic court-ordered payments for child support in an amount exceeding the sum of payments which would become due over a one-month period; [or]
- (2) Any liquidated sum exceeding \$25 which is due and owing any claimant agency, regardless of whether there is an outstanding judgment for that sum, and whether the sum has accrued through contract, subrogation, tort, operation of law, or judicial or administrative judgment or order; [or]
- (3) Any defaulted education loan note held by the United Student Aid Funds, Inc. incurred under the federal Higher Education Act of 1965 (Public Law 89-329, 79 Stat. 1219), as amended; [or]
- (4) Any federal income taxes due and owing to the United States Treasurer[.]; or
- (5) Any medicaid overpayment under section 346-A.”

SECTION 5. In codifying the new sections added by section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act, including cross references in this Act.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 294**

H.B. NO. 3028

A Bill for an Act Relating to Long-Term Care.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 346D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§346D- Medicaid reimbursement equity.** Not later than June 30, 2003, there shall be no distinction between hospital-based and nonhospital-based reimbursement rates for institutionalized long-term care under medicaid. Reimbursement for institutionalized intermediate care facilities and institutionalized skilled nursing facilities shall be based solely on the level of care rather than the location.”

SECTION 2. Section 346D-1, Hawaii Revised Statutes, is amended to read as follows:

**“§346D-1 Definitions.** For the purpose of this chapter:

[“Certified home health agency” means an agency licensed by the State to provide health services, such as skilled nursing, home health services, and physical therapy in the client’s home.

“Comprehensive assessment” means the evaluation of the client’s medical, social, and environmental needs.]

“Comprehensive home and community-based services” means the provision of a broad range of services [which will ensure the client’s safety and well-being at home over], not otherwise available under the approved medicaid state plan, which the waiver program individual needs in order to avoid institutionalization for an indefinite period of time.

[“Nonmedicaid recipient” means an individual whose income is at least one hundred per cent of and not more than three hundred per cent of the current medical assistance community income limit; and whose personal reserve is not more than four hundred per cent of the current medical assistance limit for personal reserve retention.]

“Home care agency” means an agency licensed by the State to do business in Hawaii that provides home care services such as personal care, personal assistance, chore, homemaker, and nursing services in the individual’s home.

[“Plan of care” means a written plan, including goals, objectives, and methodology, designed to meet the service requirements of the client, caregiver, or both, as approved by the physician.

“Safety and well-being” means an assessment of the client’s home environment and the determination that it is safe and that the care requirements of the client have been determined and can be provided for in the home setting.]

“Residential alternative” means a community-based residence authorized to admit waiver program individuals, such as an adult foster home, adult residential care home, domiciliary care home, or foster home for the developmentally disabled.

“Service plan” means a written plan that specifies the services, along with their frequency and their provider, necessary to maintain the individual in the community as a cost-effective alternative to institutionalization.

[“Waiver”] “Waiver program” means [an intentional relinquishment of certain rights or obligations.] the medicaid home and community-based services programs under 42 U.S.C. section 1396n.”

SECTION 3. Section 346D-2, Hawaii Revised Statutes, is amended to read as follows:

**“§346D-2 Establishment of [a community long-term care/nursing home without walls program.] medicaid home and community-based waiver programs.** (a) [A community long-term care/nursing home without walls program] Waiver programs shall be established [in] and administered by the department of human services to provide comprehensive home and community-based services for [acute or] aged, chronically ill [and], disabled [clients], developmentally disabled, and mentally retarded individuals, who are certified as requiring acute, skilled nursing, [or] intermediate [level] care[.] facility, or intermediate care facility for the mentally retarded level of care.

(b) [The provision of] These services shall be [statewide.] furnished to individuals in the geographic areas of the State identified in the approved waiver program applications.

(c) [A ceiling shall be placed on the nursing home without walls program expenditures, limiting total expenditures to not more than the amount authorized by] Medicaid home and community-based waiver program expenditures shall not exceed the amount authorized by the federal Health Care Financing Administration.

[(d) If clients from the nursing home without walls program do not utilize the entire funds available for the clients’ care, “paper credits” shall be accrued on the clients’ behalf to be utilized during a period of higher service requirements.]”

SECTION 4. Section 346D-3, Hawaii Revised Statutes, is amended to read as follows:

**“[[§346D-3]] Determination of [client] eligibility for participation in [the] a waiver program.** (a) [Clients shall meet the following eligibility criteria:

- (1) They shall be certified by the department of human services’ physicians to be in need of acute, skilled nursing, or intermediate level care;
- (2) They shall be determined by the department of human services to be eligible for medicaid assistance; and
- (3) They shall be deemed by their personal physician as able to be cared for at home with the provision of appropriate services in the home.

Nonmedicaid recipients will be eligible to receive the same array of comprehensive home services as nursing home without walls clients who are eligible for medicaid.] To qualify for participation in a waiver program, individuals shall:

- (1) Be determined by the department of human services to be eligible for federally-funded medicaid assistance;
- (2) Be certified by the department of human services, through the preadmission screening process, to be in need of acute, skilled nursing facility, intermediate care facility, or intermediate care facility for the mentally retarded level of care; and
- (3) Choose to remain in the community with the provision of home and community-based waiver program services as an alternative to institutionalization.

(b) [Clients] Individuals approved for [the] a waiver program shall [receive a:] have the following:

- (1) Comprehensive assessment of their [medical,] health, functional, social, and environmental needs;
- (2) Written [plan of care listing the types, frequency, and duration of all services which are necessary to maintain the client at home;] service plan that addresses the necessary safeguards to protect the health and welfare of the individual, and reflects the individual's freedom of choice of providers and services;
- (3) Budget based on the services defined in the [plan of care;] service plan; and
- (4) Periodic review of their health, functional, and financial status to [assure] ensure continued [medical and financial] eligibility for [service.] waiver program services.”

SECTION 5. Section 346D-4, Hawaii Revised Statutes, is amended to read as follows:

“[[**§346D-4**]] **Provision of services.** (a) Services [which shall assure the safety and well-being of the client] that maximize the individual's independence shall be provided in the [client's] individual's home [or in], the home of a responsible relative or other adult[.], or a residential alternative setting.

(b) The program shall provide the services in the most economic manner feasible which is compatible with preserving quality of care through:

- (1) Informal care providers, such as family members, friends, or neighbors who regularly provide specific services without remuneration and not as a part of any organized volunteer activity;
- (2) Individual providers hired and directed by the waiver program individual to provide specific approved services;
- [(2)] (3) Contracts with agency providers, such as [certified] home [health] care agencies and public or private health and social service [agencies;] organizations;
- [(3)] (4) Contracts with individual providers, such as [physicians,] counselors, nurses, [and] therapists, and residential alternative program operators who [privately enter into a contract to] provide services for the waiver program; [or] and
- [(4)] (5) Program personnel, such as social workers and nurses who are hired by the waiver program to provide specific services.”

SECTION 6. Section 346D-5, Hawaii Revised Statutes, is repealed.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 8. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to the State Policy Concerning the Utilization of Volunteer Service.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 90-1, Hawaii Revised Statutes, is amended by amending the definition of "agency" to read as follows:

"The term "agency" means any state agency within the executive, legislative, and judicial branches [and], the office of Hawaiian affairs [but excludes], and any agency within the executive and legislative branches of<sup>1</sup> the several counties."

SECTION 2. Section 90-2, Hawaii Revised Statutes, is amended to read as follows:

**"§90-2 Scope of chapter; status of volunteers.** (a) An agency may recruit, train, and accept the services of volunteers.

(b) No person shall on the basis of sex, age, race, color, ancestry, religion, national origin, marital status, physical or mental handicap, or political grounds, be excluded from participation in, or be denied the benefits of, any volunteer program or volunteer activity.

(c) Volunteers recruited, trained, or accepted by an agency shall be excluded from any provision of law relating to state or county employment, from any collective bargaining agreement between the State and counties, with any employees' association or union, from any law relating to hours of work, rates of compensation, leaves, and employee benefits, and from any other provision of title 7, except those consistent with this chapter.

(d) An agency may reimburse volunteers for expenses, consistent with the provisions of section 90-4, as deemed necessary to assist volunteers in performing their services.

(e) An agency may designate a person or establish a position to coordinate and administer the volunteer activities of that agency."

SECTION 3. Section 90-5, Hawaii Revised Statutes, is amended to read as follows:

**"§90-5 Agency reports, required information.** [An] A state agency as part of its annual report to the governor, the legislature, or the chief justice shall include estimates of:

- (1) The total number of volunteers and the total number of hours of service broken down into categories of regular-service volunteers, occasional volunteers, stipended volunteers, and material donors.
- (2) A list of volunteer job titles used by the agency."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 20, 1998.)



## Note

1. Should be underscored.

## ACT 296

H.B. NO. 3138

A Bill for an Act Relating to the Counties.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . TRANSFER OF DEVELOPMENT RIGHTS**

**§46- Findings and purpose.** The legislature finds that there is a need to clarify the authority of the counties to exercise the power to transfer development rights within a comprehensive planning program to:

- (1) Protect the natural, scenic, recreational, and agricultural qualities of open lands including critical resource areas; and
- (2) Enhance sites and areas of special character or special historical, cultural, aesthetic, or economic interest or value.

The legislature finds that transfer of development rights programs can help to ensure proper growth, while protecting open and distinctive areas and spaces of varied size and character, including many areas that have significant agricultural, ecological, scenic, historical, aesthetic, or economic value. These areas, if preserved and maintained in their present state, would constitute important physical, social, aesthetic, or economic assets to existing or impending urban and metropolitan development. The legislature further finds that transferring development rights is a useful technique to achieve community objectives. Properly utilized, the concept can be fully consistent with comprehensive planning requirements. The legislature further finds and declares that the concept, utilizing the normal market in land, can provide a mechanism of just compensation to owners of property to be protected or preserved.

**§46- Definitions.** As used in this part, unless the context clearly requires otherwise:

“Council” means the county council.

“Development rights” means the rights permitted for a lot, parcel, or area of land under a zoning ordinance or local law respecting permissible use, area, density, bulk, or height of improvements thereon. Development rights may be calculated and allocated in accordance with factors such as area, floor area ratios, density, height limitations, or any other criteria that will effectively quantify a value for the development right in a reasonable and uniform manner that will carry out the objectives of this part.

“Receiving district” means one or more designated districts or areas of land to which development rights generated from one or more sending districts may be transferred and in which increased development is permitted to occur by reason of this transfer.

“Sending district” means one or more designated districts or areas of land in which development rights may be designated for use in one or more receiving districts.

“Transfer of development rights” means the process by which development rights are transferred from one lot, parcel, or area of land in any sending district to another lot, parcel, or area of land in one or more receiving districts.

**§46- Conditions for the transfer of development rights.** (a)<sup>1</sup> In addition to any existing power, duty, and authority of the counties to regulate land uses by planning or zoning, the counties are hereby authorized to transfer and regulate the transfer of development rights, subject to the conditions set forth under this part, as well as planning laws, zoning laws, and any other conditions as the legislative body of each county deems necessary and appropriate. The purpose of providing for transfer of development rights shall be to:

- (1) Protect the natural, scenic, and agricultural qualities of open lands;
- (2) Enhance sites and areas of special character or special historical, cultural, aesthetic, or economic interest or value; and
- (3) Enable and encourage flexibility of design and careful management of land in recognition of land as a basic and valuable natural resource.

**§46- Procedures.** Any county modifying its zoning ordinance or enacting a local law pursuant to this part shall follow the procedure for adopting and amending its ordinances.

**§46- Other rights not affected.** Nothing in this part shall be construed to invalidate any provision relating to the transference or purchase of development rights heretofore or hereafter adopted by any county.”

SECTION 2. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**Note**

- 1. No subsection (b) designation.

**ACT 297**

H.B. NO. 3247

A Bill for an Act Relating to Short Term Investment of County Monies.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 46-50, Hawaii Revised Statutes, is amended to read as follows:

**“§46-50 Short term investment of county moneys.** The director of finance of each county may, with the approval of the legislative body, invest county moneys which are in excess of the amounts necessary for the meeting of immediate requirements when in the judgment of the legislative body [such] the action will not impede or hamper the necessary financial operations of the county[,], in [bonds];

- (1) Bonds or [interest bearing] interest-bearing notes or obligations [of the];
  - (A) Of the county[, of the];
  - (B) Of the State<sup>1</sup> [, of the];
  - (C) Of the United States[,]; or [of]
  - (D) Of agencies of the United States;
 for which the full faith and credit of the United States are pledged for the payment of principal and interest[, or in federal];

- (2) Federal land bank bonds [or joint];
  - (3) Joint stock farm loan bonds[, or<sup>2</sup> bank];
  - (4) Federal Home Loan Bank notes and bonds;
  - (5) Federal Home Loan Mortgage Corporation bonds;
  - (6) Federal National Mortgage Association notes and bonds;
  - (7) Securities of a mutual fund whose portfolio is limited to bonds or securities issued or guaranteed by the United States or an agency thereof;
  - (9)<sup>3</sup> Repurchase agreements fully collateralized by any such bonds or securities;
  - (10) Bank savings accounts[, or in time];
  - (11) Time certificates of deposit[, or in certificates];
  - (12) Certificates of deposit open account[, or in bonds];
  - (13) Bonds of any improvement district of any county of the State[, or in bank];
  - (14) Bank, savings and loan association, and financial services loan company repurchase agreements;
  - (15) Student loan resource securities including:
    - (A) Student loan auction rate securities;
    - (B) Student loan asset-backed notes;
    - (C) Student loan program revenue notes and bonds; and
    - (D) Securities issued pursuant to Rule 144A of the Securities Act of 1933, including any private placement issues;
- issued with either bond insurance or overcollateralization guaranteed by the United States Department of Education; provided all insurers maintain a triple-A rating by Standard & Poors, Moody's Duff & Phelps, Fitch, or any other major national securities rating agency;  
 provided the investments are due to mature not more than [three] five years from the date of investment. The income derived therefrom shall be deposited in [such] the fund or funds [as] that the legislative body shall direct, provided that if any money invested under this section belongs to any waterworks fund, then any income derived therefrom shall be paid into and credited to the fund.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

#### Notes

- 1. “State” should not be underscored.
- 2. Prior to amendment “in” appeared here.
- 3. No paragraph (8) designation.

## ACT 298

H.B. NO. 3248

A Bill for an Act Relating to Lapsed Warrants.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 46-44.5, Hawaii Revised Statutes, is amended to read as follows:

“[[§46-44.5]] Lapsed warrant. Any law to the contrary notwithstanding, any warrant drawn upon any county treasury [unless] shall be presented for payment before the close of the fiscal year next after the fiscal year in which it has been issued. All warrants not so presented within that time shall be deemed to be lapsed and shall not be paid, and any money held in the county treasury for payment of the warrant shall thereupon be [deposited to the credit of the general fund of the county;] transferred to a trust fund established and known as the lapsed warrants trust fund; provided that the fund balance in the trust fund shall not exceed \$500,000 and any excess of that amount shall be transferred to the general fund; provided that within the period of [ten] four fiscal years immediately following the year in which the warrant was lapsed, the payee or assignee of the warrant, or, if the payee is deceased, the personal representative of the estate of the payee, or if the estate of the payee is closed, to any person lawfully entitled to the undisposed property of the deceased payee, shall be entitled to payment of the amount of the warrant out of [moneys not otherwise appropriated in the general fund] the trust fund upon filing with the director of finance of the county a claim for recovery supported by [such] evidence [as] that may be deemed satisfactory by the director.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**ACT 299**

H.B. NO. 3252

A Bill for an Act Relating to Motor Vehicle Safety Responsibility.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 287-20, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Whenever by reason of a conviction of, or adjudication under part V of chapter 571 by reason of, any of the offenses listed in this subsection, under the laws of the State or ordinances of any political subdivision, a court of competent jurisdiction has discretion to revoke or suspend a driver’s license but does not revoke or suspend the license, the administrator shall nevertheless after the expiration of thirty days from the date of conviction or adjudication suspend the license and shall keep the same suspended, and the person so convicted or adjudicated shall not thereafter operate a motor vehicle, unless and until the person so convicted or adjudicated furnishes and thereafter maintains proof of financial responsibility. The offenses referred to are:

- (1) Reckless or inattentive driving, driving while under the influence of intoxicating liquor, driving while under the influence of drugs, and driving while that person’s license has been suspended or revoked, except when a person’s license has been suspended or revoked for the first conviction of driving without a motor vehicle insurance policy;
- (2) Conviction or adjudication under part V of chapter 571 by reason of any moving violation offense involving a motor vehicle if the motor vehicle is in any manner involved in an accident in which any person is killed or injured, or in which damage to property results to an apparent

- extent in excess of [\$1,000] \$3,000 and there are reasonable grounds for the administrator to believe that the defendant is at fault; and
- (3) Driving without a valid motor vehicle insurance policy if the conviction occurs within a five-year period from any prior conviction.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**Note**

1. Prior to amendment “,” appeared here.

**ACT 300**

H.B. NO. 3257

A Bill for an Act Relating to Criminal History Checks.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 846-43, Hawaii Revised Statutes, is amended to read as follows:

**“§846-43 Employees of the department of education[;] and counties; criminal history checks.** (a) The department of education, the counties, and respective private schools, may develop procedures for obtaining verifiable information regarding the criminal history of persons who are employed or are seeking employment in public or private schools or any county in positions which place them in close proximity to children. These procedures shall include[,] but not be limited to[,] criminal history record checks. For the purposes of this section, “criminal history record check” means an examination or search for evidence of an individual’s criminal history by means of:

- (1) A search for the individual’s fingerprints in the [national] Federal Bureau of Investigation criminal history record files and, if found, an analysis and any other information available pertaining thereto; and
- (2) A criminal history record check conducted by the Hawaii criminal justice data center;

provided that the Hawaii criminal justice data center may charge a reasonable fee for criminal history record checks performed for private schools[.] and for Federal Bureau of Investigation criminal history record checks.

(b) Except as otherwise specified, any person who is employed or seeks employment with a public or private school or any county in a position which necessitates close proximity to children may be required to provide to the employer or prospective employer:

- (1) A sworn statement indicating whether or not the person has ever been convicted of a crime (other than a traffic violation involving a fine of \$50 or less), and the details thereof;
- (2) Written consent for the employer to conduct a criminal history record check as provided in subsection (a) and to obtain other information for verification; and
- (3) Permission to be fingerprinted[.] for the purpose of the Federal Bureau of Investigation criminal history record check.

## ACT 301

Information obtained pursuant to subsection (a) and this subsection shall be used exclusively by the employer or prospective employer for the purpose of determining whether or not a person is suitable for working in close proximity to children. All such decisions shall be subject to federal laws and regulations currently or hereafter in effect.

(c) The employer or prospective employer may refuse to employ, may refuse to issue a teaching or other educational certificate to, may revoke the teaching or other educational certificate of, or may terminate the employment of any employee or applicant if the person has been convicted of a crime, other than a minor traffic offense involving a fine of \$50 or less, and if the employer or prospective employer finds by reason of the nature and circumstances of the crime that the person poses a risk to the health, safety, or well-being of children. Such refusal, revocation, or termination may occur only after appropriate investigation, notification of results and planned action, and opportunity to meet and rebut the finding, all of which need not be conducted in accordance with chapter 91.

(d) This section shall not be used by the department of education to secure criminal history record checks on persons who have been employed continuously by the department on a salaried basis prior to July 1, 1990.

(e) This section shall not be used by a county to secure criminal history record checks on persons who have been employed continuously on a salaried basis prior to June 1, 1998.

(f) For the purposes of this section, "close proximity to children" as applied to the counties, applies to programs and services for recreation or child care, or both.

[(e)] (g) For the purpose of this section, notwithstanding any other law to the contrary, the department of education, the counties, and private schools shall be exempt from section 831-3.1 and need not conduct its investigations, notifications, or hearings in accordance with chapter 91."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

## ACT 301

H.B. NO. 3281

A Bill for an Act Relating to Condominiums.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 514A-82, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The bylaws shall provide for at least the following:

(1) Board of directors:

(A) The election of a board of directors;

(B) The number of persons constituting the board; provided that condominiums with more than one hundred individual apartment units shall have an elected board of not less than nine members unless not less than sixty-five per cent of all apartment owners vote by mail ballot, or at a special or annual meeting, to reduce the minimum number of directors;

- (C) That for the initial term of office, directors shall serve for a term of three years or the term as specified by the bylaws or until their successors have been elected or appointed;
  - (D) The powers and duties of the board;
  - (E) The compensation, if any, of the directors; and
  - (F) Whether or not the board may engage the services of a manager or managing agent, or both, and specifying which of the powers and duties granted to the board by this chapter or otherwise may be delegated by the board to either or both of them[.];
- (2) Method of calling meetings of the apartment owners; what percentage, if other than a majority of apartment owners, constitutes a quorum; what percentage [is], consistent with this chapter, is necessary to adopt decisions binding on all apartment owners and that votes allocated to any area [which] that constitutes a common element under section 514A-13(h) shall not be cast at any association meeting, regardless of whether [or not] it is so designated in the declaration[.];
  - (3) Election of a president from among the board of directors who shall preside over the meetings of the board of directors and of the association of apartment owners[.];
  - (4) Election of a secretary who shall keep the minute book wherein resolutions shall be recorded[.];
  - (5) Election of a treasurer who shall keep the financial records and books of account[.];
  - (6) Operation of the property, payment of the common expenses, and determination and collection of the common charges[.];
  - (7) Manner of collecting common expenses, expenses, costs, and fees recoverable by the association under section 514A-94, and any penalties and late charges[.];
  - (8) Designation and removal of personnel necessary for the maintenance, repair, and replacement of the common elements[.];
  - (9) Method of adopting and amending administrative rules governing the details of the operation and use of the common elements[.];
  - (10) The restrictions on and requirements respecting the use and maintenance of the apartments and the use of the common elements, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of their respective apartments and of the common elements by the several apartment owners[.];
  - (11) The first meeting of the association of apartment owners shall be held not later than one hundred eighty days after recordation of the first apartment conveyance; provided forty per cent or more of the project has been sold and recorded. If forty per cent of the project is not sold and recorded at the end of one year, an annual meeting shall be called; provided ten per cent of the apartment owners so request[.];
  - (12) All members of the board of directors shall be owners, co-owners, vendees under an agreement of sale, or an officer of any corporate owner of an apartment. The partners in a general partnership and the general partners of a limited partnership shall be deemed to be the owners of an apartment for this purpose. There shall not be more than one representative on the board of directors from any one apartment[.];
  - (13) A director shall not cast any proxy vote at any board meeting, nor shall a director vote at any board meeting on any issue in which the director has a conflict of interest[.];
  - (14) No resident manager of a condominium shall serve on its board of directors[.];

- (15) The board of directors shall meet at least once a year[.];
- (16) All association and board of directors meetings shall be conducted in accordance with the most current edition of Robert's Rules of Order[.];
- (17) All meetings of the association of apartment owners shall be held at the address of the condominium project[,], or elsewhere within the State as determined by the board of directors[.]; and
- (18) Penalties chargeable against persons for violation of the covenants, conditions, or restrictions set forth in the declaration, or of the bylaws and administrative rules adopted pursuant thereto, method of determination of violations, and manner of enforcing penalties, if any."

SECTION 2. Section 514A-94, Hawaii Revised Statutes, is amended to read as follows:

**“§514A-94 Attorneys’ fees, delinquent assessments, and expenses of enforcement.** (a) All costs and expenses, including reasonable attorneys’ fees, incurred by or on behalf of the association for:

- (1) Collecting any delinquent assessments against any owner’s apartment;
- (2) Foreclosing any lien thereon; or
- (3) Enforcing any provision of the declaration, bylaws, house rules, and the

Condominium Property Act; or the rules of the real estate commission; against an owner, occupant, tenant, employee of an owner, or any other person who may in any manner use the property shall be promptly paid on demand to the association by such person or persons; provided that if the claims upon which the association takes any action are not substantiated, all costs and expenses, including reasonable attorneys’ fees, incurred by any such person or persons as a result of the action of the association, shall be promptly paid on demand to such person or persons by the association.

(b) If any claim by an owner is substantiated in any action against an association, any of its officers or directors, or its board of directors to enforce any provision of the declaration, bylaws, house rules, or this chapter, then all reasonable and necessary expenses, costs, and attorneys’ fees incurred by an owner shall be awarded to such owner; provided that no such award shall be made in any derivative action unless:

- (1) The owner first shall have demanded and allowed reasonable time for the board of directors to pursue such enforcement; or[,]
- (2) The owner demonstrates to the satisfaction of the court that a demand for enforcement made to the board of directors would have been fruitless.

If any claim by an owner is not substantiated in any court action against an association, any of its officers or directors, or its board of directors to enforce any provision of the declaration, bylaws, house rules, or this chapter, then all reasonable and necessary expenses, costs, and attorneys’ fees incurred by an association shall be awarded to the association, unless the action was filed in small claims court or prior to filing the action in a higher court the owner has first submitted the claim to mediation, or to arbitration under part VII of this chapter, and made a good faith effort to resolve the dispute under any of those procedures.

(c) Anyone contracted by the association of apartment owners to collect delinquent assessments against any owner’s apartment shall not share in any portion of any penalties or late charges collected.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.



SECTION 4. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

## ACT 302

H.B. NO. 3289

A Bill for an Act Relating to Liability.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 486K, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§486K- Hotelkeeper’s liability for provision of certain recreational equipment.** (a) Notwithstanding section 663-1.54, a hotelkeeper shall have no duty to instruct or train a user of recreational equipment or to supervise the use of such equipment where the recreational equipment is in fact used without supervision and, at the time of such use, is not part of an activity guided or managed by representatives of the hotelkeeper.

(b) As used in this section, “recreational equipment” includes skin diving masks, snorkels, swim fins, bodysurfing boards, surfboards, canoes, kayaks, bicycles, skates, tennis or golf equipment, weights and exercise equipment, air mattresses, and flotation devices provided by the hotel. “Recreational equipment” does not include:

- (1) Any water or land vehicle powered by an engine, motor, or the wind;
- (2) Any device, other than a snorkel, that permits a person to breathe while submerged;
- (3) Parachutes, parasails, or any equipment designed for flight, gliding, or controlled descent in the air;
- (4) Any firearm, airgun, archery equipment; or
- (5) Any edged weapon.

(c) Nothing in this section shall bar liability of a hotelkeeper:

- (1) For negligence in the maintenance of recreational equipment; or
- (2) When a loss or injury is suffered by a hotel guest and is caused by the hotelkeeper’s failure to warn against a hazardous condition on a beach or in the ocean, known, or which should have been known to a reasonably prudent hotelkeeper, as specified in section 486K-5.5.’’

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

### Note

1. Edited pursuant to HRS §23G-16.5.

A Bill for an Act Relating to Health Tourism.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds it is desirable for the State to diversify the tourism base and develop its potential for special markets such as health tourism. Health-related tourism provides a means of promoting Hawaii's healthcare services, facilities, and education with tourism amenities to attract patients, especially those from the Asia-Pacific region. The legislature also finds that Hawaii's healthcare providers already have contractual arrangements with a number of Asia-Pacific nations which provide a base for the further development of health tourism. An important part of this effort is the University of Hawaii John A. Burns school of medicine and the University of Hawaii school of nursing. The school of medicine currently accepts graduates of foreign medical schools into its residency program. The school of nursing accepts foreign students into its bachelor of science and master in science graduate programs as well as conducts a number of continuing education offerings for short-term foreign visitors to Hawaii. Both of these school's foreign activities provide models for an expanded international student exchange. Both the school of medicine and the school of nursing would benefit from the establishment of a permanent exchange program between Hawaii and healthcare communities in Asia and around the world. These activities would be an important factor in enhancing the reputation of the school of medicine and the school of nursing and the success of the State's health tourism promotion efforts.

The purpose of this Act is to establish a permanent international exchange program between the University of Hawaii John A. Burns school of medicine and the University of Hawaii school of nursing and foreign healthcare provider educational institutions to promote Hawaii's health industry and to encourage the development of health-related tourism in the Asia-Pacific region and around the world.

SECTION 2. Chapter 304, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§304- International exchange program for health related tourism.** There is established an international exchange program for medical and nursing students within the University of Hawaii John A. Burns school of medicine and the University of Hawaii school of nursing that shall focus on Hawaii's role in international medical and nursing education, training, research, and information sharing. The school of medicine and the school of nursing, in cooperation with the school of public health and the school of travel industry management, shall develop a plan for the development and promotion of Hawaii's healthcare expertise to be coordinated with the State's initiative to promote health-related tourism.

**§304- International exchange health care tourism revolving fund.** (a) There is established a revolving fund for the international exchange of healthcare tourism program into which shall be deposited all donations, gifts, contributions, legislative appropriations, and moneys generated by the program through education, training, and research contracts and grants. Moneys deposited into this fund for the school of medicine and the school of nursing shall be divided into separate accounts for each school, provided that moneys not designated for use by a particular school shall be divided equally. Moneys shall be expended from each account by the school of medicine and the school of nursing, for student aid, training projects, teaching,

supplies, services, and activities related to the development and promotion of the health-related tourism education program.

(b) The deans of the school of medicine and the school of nursing shall jointly prepare and submit an annual report to the legislature accounting for all income and expenditures of the revolving fund.

(c) All unexpended and unencumbered moneys appropriated by the legislature remaining in the fund at the close of each fiscal year which are deemed, by the director of finance, to be in excess of the moneys necessary to carry out the purposes of this section over the next following fiscal year shall lapse to the credit of the state general fund.”

SECTION 3. New statutory material is underscored.<sup>1</sup>

SECTION 4. This Act shall take effect on July 1, 1998.

(Approved July 20, 1998.)

**Note**

1. Edited pursuant to HRS §23G-16.5.

**ACT 304**

H.B. NO. 3437

A Bill for an Act Relating to Funding the Hawaii Hurricane Fund.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that there is a need to increase the post-hurricane assessment on those insurers that acted as servicing facilities for the Hawaii hurricane relief fund during the preceding year.

The legislature finds that the Hawaii hurricane relief fund’s exposure has increased since inception while the post-hurricane assessment on those acting as servicing facilities has not changed. The assessment provided by a formula, although limited to a maximum of \$500,000,000, is not greater than \$300,000,000.

Additionally, proposed national legislation would require state-funded catastrophe programs to maintain minimum claims-paying capacities. For the State of Hawaii, the minimum retention level would be \$2,000,000,000. The Hawaii hurricane relief fund has claims-paying capabilities of \$1,350,000,000.

SECTION 2. Section 431P-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In addition to the general powers under subsection (a), the fund shall have the specific power to:

- (1) Adopt and administer a plan of operation in accordance with section 431P-7, and a manual of rules and rates to provide persons having an insurable interest in eligible property with insurance coverage provided by the fund;
- (2) Authorize the provision of hurricane coverage by the fund for tangible personal property located in or on real property used for business, commercial, or industrial purposes and establish limits of liability for specific coverages within the range of authorized coverage;
- (3) Adopt actuarially sound rates based on reasonable assumptions relative to expectations of hurricane frequency and severity for all coverage provided under policies or endorsements issued by the fund. Rates

adopted shall be subject to approval by the commissioner pursuant to article 14 of chapter 431. Rates adopted shall provide for classification of risks and shall include past and prospective losses and expense experience in this State;

- (4) Adopt procedures, guidelines, and surcharges applicable to policies of hurricane property insurance issued in connection with an underlying property policy issued by an unauthorized insurer;
- (5) Adopt any form of insurance policy necessary for providing policies of hurricane property insurance by the fund, with the approval of the commissioner;
- (6) Issue policies of hurricane property insurance and pay claims for coverage over the mandatory deductible;
- (7) Require every licensed property and casualty insurer transacting direct property insurance business in this State to act as a servicing facility, and by contract with that insurer authorize the insurer to inspect eligible properties, service policies and policyholders of hurricane property insurance, provide claim services, and perform any other duties as authorized by the fund for applicants to the fund and those insured by it;
- (8) (A) Assess all licensed property and casualty insurers the amounts which, together with the other assets of the fund, are sufficient to meet all necessary obligations of the fund. The assessment shall be made on the insurer's gross direct written premiums for property and casualty insurance in this State for the preceding calendar year. The rate of assessment in a year in which a covered event has not occurred shall be 3.75 per cent and shall not include the insurer's gross direct written premiums for motor vehicle insurance in this State; provided that following a covered event, the rate of assessment may be increased to an amount not to exceed five per cent and may include the insurer's gross direct written premiums for motor vehicle insurance in this State. This increase shall remain in effect until such time as all claims and other obligations, including but not limited to bonds and notes, arising out of a covered event shall have been fully discharged. An insurer authorized to provide comparable coverage under section 431P-10(b) shall be assessed an amount that excludes gross direct written premiums for property insurance in this State. The assessment for a year in which a covered event has not occurred shall be collected quarterly during each calendar year[.];
- (B) In the event of a loss from a covered event the fund, in addition to the assessment in subparagraph (A), shall assess those insurers which acted as servicing facilities during the [year immediately preceding the year of the covered event.] twelve months ending at the start of the month preceding the month in which the covered event occurs. The total assessment shall be [based on the proportion of the gross direct written premiums from companion policies together with the total fund gross direct written premium from] a fixed percentage of the total coverage provided by the fund under its policies of hurricane property insurance [of the insurers that acted as servicing facilities to the total gross direct written premium from policies of property insurance written by all licensed property and casualty insurers whether acting as servicing facilities or not, and including any other insurer acting as a servicing facility together with the total fund gross direct written premium from policies of hurricane property insurance

during the year immediately preceding the year of the covered event. Premiums from policies of property insurance under this subparagraph for losses in excess of coverage provided by the fund's policies of hurricane property insurance shall be considered non-assessable premium for purposes of determining this assessment. However, in no event shall the total assessment exceed \$500,000,000 in the aggregate and be less than an amount established by the board; provided that a) during the month preceding the month in which the covered event occurs. The percentage to be used in calculating the total assessment shall be as follows:

- (i)<sup>1</sup> For calendar year 1998, a percentage as fixed by the board in the plan of operation, but in no event shall the total assessment exceed \$500,000,000;
- (ii) For calendar year 1999, 1.125 per cent;
- (iii) For calendar year 2000, 1.25 per cent; and
- (iv) For calendar year 2001, and each calendar year thereafter, 1.5 per cent.

A separate total assessment shall be made for each covered event. The total assessment shall be allocated to each servicing facility based on the proportion of the total amount of the fund's gross direct written premiums for policies of hurricane property insurance serviced by each servicing facility [in proportion] to the total amount of the fund's gross direct written premiums for policies of hurricane property insurance[.], in each case, during the twelve months ending at the start of the month preceding the month in which the covered event occurs. Assessments made under this subparagraph and those under subparagraph (A) in a year in which a covered event has occurred are due from each insurer based on assessment procedures established by the fund [together with its servicing facilities] to meet its obligations to policyholders in a timely manner[.]; and

- (C) The fund may exempt or defer, in whole or in part, the assessment of any insurer if the assessment would cause the insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by this jurisdiction;
- (9) Develop a program of incentives to encourage insurers to provide policies of hurricane property insurance in the event the commissioner authorizes the provision of comparable insurance pursuant to section 431P-10(b) which may include[.] but are not limited to[.] exemption of the insurer's gross direct written premium for property insurance from the assessment pursuant to paragraph (8)(A);
- (10) Develop a credit based on the difference between premiums written in 1993 and the premiums written in 1992 by each property insurer against the assessment for gross direct written premiums written in 1993;
- (11) Develop procedures regarding policies written by unauthorized insurers comparable to the assessments, surcharges, and other contributions made by insurers authorized to do business in this State;
- (12) Accumulate reserves or funds, including the investment income thereon, to be used for paying expenses, making or repaying loans or other obligations of the fund, providing loss mitigation incentives, and paying valid claims for covered events insured by the fund;

- (13) Collect and maintain statistical and other data as may be required by the commissioner;
- (14) Exempt mortgage transactions from payments of the special mortgage recording fee and provide for equitable assessment of the special mortgage recording fee, pursuant to rules adopted by the board. The adoption of or amendments to such rules shall be subject to chapter 91; [and]
- (15) Create loss mitigation incentives, including but not limited to premium credits, premium rebates, loans, or cash payments;
- (16) Enter into claims financing transactions, including but not limited to reinsurance transactions, debt transactions, and other transactions incorporating elements of reinsurance, insurance, debt or equity;
- (17) Establish business and corporate entities or organizations pursuant to the purposes of this chapter; and
- [(15)] (18) Perform any and all acts reasonably necessary to carry out the purposes of this chapter.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**Note**

- 1. Should be underscored.

**ACT 305**

H.B. NO. 3446

A Bill for an Act Authorizing the Issuance of Special Purpose Revenue Bonds for Not-for-Profit Corporations that Provide Health Care Facilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds and declares that it is in the public interest to encourage development of senior housing communities in the State of Hawaii. The legislature further finds that Kupuna Park, Inc., a not-for-profit Hawaii corporation, is engaged in the development of a senior housing community in Hilo on the island of Hawaii and thereby serves the public.

The legislature further finds that Kupuna Park, Inc. may be assisted through the issuance of special purpose revenue bonds because its senior housing community in Hilo is a health care project as defined in part II, chapter 39A, Hawaii Revised Statutes.

The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare.

SECTION 2. Pursuant to part II, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue in one or more series special purpose revenue bonds in a total amount not to exceed the sum of \$20,000,000 for the purpose of assisting Kupuna Park, Inc., a Hawaii not-for-profit corporation, or another Hawaii nonprofit entity established by or under the auspices of Kupuna Park, Inc., in the acquisition or leasing of land for,

and the planning, design, construction, and operation of, a senior housing community.

The legislature finds and determines that the activity of Kupuna Park, Inc. constitutes a health care facility as defined in part II, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to a health care facility.

SECTION 3. The special purpose revenue bonds issued under this Act shall be issued pursuant to part II, chapter 39A, Hawaii Revised Statutes, relating to the authority to issue special purpose revenue bonds to assist nonprofit corporations that provide health care facilities to the general public.

SECTION 4. The department of budget and finance is further authorized to issue from time to time refunding special purpose revenue bonds authorized in principal amounts that the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2.

SECTION 5. The authorization to issue special purpose revenue bonds under this Act shall lapse on the latter of June 30, 2003, or the sunset date of section 39A-52, Hawaii Revised Statutes.

SECTION 6. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

## ACT 306

H.B. NO. 3457

A Bill for an Act Relating to the West Hawaii Regional Fishery Management Area.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that regional management of nearshore marine resources is an effective approach to further the policies and objectives of the Hawaii ocean resources management plan. This has been proven through the experience in the United States and in other countries, a notable example being the Great Barrier Reef Marine Park.

International experience has proven the benefits of establishing areas under management plans that integrate the management of activities and resource use so as to sustain the quality and health of living and non-living marine resources. This includes ensuring that management of fisheries and ocean recreation activities is coordinated to enhance the effectiveness of resource protection.

Scientific research and experience in regional management support the premise that establishing a minimum of thirty per cent of coastal waters as fish replenishment areas will be effective in enhancing and sustaining the stocks of nearshore marine resources.

Regional ocean management is recognized in the Hawaii state statutes as a valuable management tool. These statutes authorize the department of land and natural resources to create fishery management areas, marine life conservation districts, and ocean recreation management areas. The lead agency for these management areas is the department of land and natural resources through its divisions of aquatic resources and boating and ocean recreation.

Within these designated areas, the legislature has granted to the department of land and natural resources expanded rule making authority to separate incompatible uses and protect significant resources. This authority includes limiting access to

fisheries in fishery management areas, and restricting types of ocean recreation activities in ocean recreation management areas.

The department of land and natural resources has identified the highest priority areas with significant pressures from resource exploitation and conflicts of use. Two of the top three areas, namely Kaneohe bay and Hanauma bay, are already under comprehensive integrated ocean management plans. The third area, the west coast of Hawaii island, has no integrated regional management plan.

The legislature finds that the west coast of Hawaii island has some of the finest coral reefs in the world. It is ranked as the top overall dive destination by dive tourists. These coral reefs are enjoyed by divers from the community as well as from the recreational dive industry. The reefs also provide essential habitat for fish and other marine life that are caught by recreational, commercial, and subsistence fishers.

As human population grows, increasing fishing pressure and environmental stresses from activities on or adjacent to the reefs are causing degradation of the reef environment. Collection of reef fish for aquarium purposes has caused a depletion of these fish in localized nearshore reef areas, even though scientists argue that the overall population of these reef fish is not significantly affected by collection efforts. Impacts from boat anchors and novice divers have caused coral damage in some of these nearshore reef areas as well. In addition, the use of set nets has caused a significant impact on reef fish populations in certain areas. Finally, land use on the adjacent coastal areas has, in some cases, caused additional runoff that has affected coral reef areas.

Because of these pressures, the legislature finds that it is in the best interests of the resources and the community for the department of land and natural resources to establish a regional fishery management area in West Hawaii to set aside areas for fish replenishment, as well as regulate impacts from other users.

The legislature further finds that the user conflict and localized resource depletion caused by aquarium fish collectors in West Hawaii are serious and ongoing concerns. To that end, this Act directs the department of land and natural resources to take immediate action to set aside at least thirty per cent of these coastal waters as areas where aquarium fish collecting is prohibited.

The legislature recognizes the scientific support for establishing fish replenishment areas where no fishing is allowed as an effective means to enhance stocks of sport fish and food fish. This Act directs the department of land and natural resources to designate some areas as fish reserves, where no fishing of reef-dwelling fish is allowed. More time is allowed for this step to enable the department to work closely with the fishing community to gain its support.

The legislature believes that this integrated regional management approach will be effective in enhancing and sustaining all nearshore marine resources for fishers, divers, and all users of these waters.

The purpose of this Act is to establish a West Hawaii regional fishery management area for effective management of fishery activities in this coastal area, to enhance nearshore resources, and to minimize conflicts of use.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
WEST HAWAII REGIONAL FISHERY MANAGEMENT AREA**

§ -1 **Definitions.** As used in this chapter, unless the context requires otherwise:

“Department” means the department of land and natural resources.



“Management area” means the West Hawaii regional fishery management area established in section -2.

“Plan” means the West Hawaii regional fishery management area plan established in section -4.

**§ -2 West Hawaii regional fishery management area; establishment.**

The department of land and natural resources shall establish the West Hawaii regional fishery management area to improve the management of consumptive and nonconsumptive uses of aquatic resources encompassing the regional ocean area on the west coast of Hawaii island, from Ka Lae, Kau (South Point) to Upolu Point, North Kohala, but not including Kawaihae commercial harbor.

**§ -3 West Hawaii regional fishery management area; purpose.** The purpose of the West Hawaii regional fishery management area shall be to:

- (1) Ensure the sustainability of the State’s nearshore ocean resources;
- (2) Identify areas with resource and use conflicts;
- (3) Provide management plans as well as implementing regulations for minimizing user conflicts and resource depletion, through the designation of sections of coastal waters in the West Hawaii regional fishery management area as fish replenishment areas where certain specified fish harvesting activities are prohibited, and other areas where anchoring and ocean recreation activities are restricted;
- (4) Establish a system of day-use mooring buoys in high-use coral reef areas and limit anchoring in some of these areas to prevent anchor damage to corals;
- (5) Identify areas and resources of statewide significance for protection;
- (6) Carry out scientific research and monitoring of the nearshore resources and environment; and
- (7) Provide for substantive involvement of the community in resource management decisions for this area through facilitated dialogues with community residents and resource users.

**§ -4 West Hawaii regional fishery management area plan.** The department shall develop a West Hawaii regional fishery management area plan that identifies and designates appropriate areas of the management area as follows:

- (1) Designates a minimum of thirty per cent of coastal waters in the West Hawaii regional fishery management area as fish replenishment areas in which aquarium fish collection is prohibited;
- (2) Establishes a day-use mooring buoy system along the coastline of the West Hawaii regional fishery management area and designates some high-use areas where no anchoring is allowed;
- (3) Establishes a portion of the fish replenishment areas as fish reserves where no fishing of reef-dwelling fish is allowed; and
- (4) Designates areas where the use of gill nets as set nets shall be prohibited.

**§ -5 Review.** A review of the effectiveness of the West Hawaii regional fishery management area plan shall be conducted every five years by the department of land and natural resources, in cooperation with the University of Hawaii. The department shall submit a report of its findings and recommendations based on the review to the legislature no later than twenty days before the convening of the regular session following the review.

§ -6 Rules. The department shall adopt rules to effectuate the purposes of this chapter in accordance with chapter 91.”

SECTION 3. As part of the West Hawaii regional fishery management area plan, the department of land and natural resources shall adopt rules in accordance with chapter 91, Hawaii Revised Statutes, as follows:

- (1) By October 1, 1998, designate a minimum of thirty per cent of coastal waters in the West Hawaii regional fishery management area as fish replenishment areas in which aquarium fish collection is prohibited. This area would include existing no-collecting areas;
- (2) By July 1, 1999, establish a day-use mooring buoy system along the coastline of the West Hawaii regional fishery management area and designate some high-use areas where no anchoring is allowed;
- (3) By October 1, 1999, establish a portion of the fish replenishment areas as fish reserves where no fishing of reef-dwelling fish is allowed. These reserves will extend out to a depth of two hundred meters, the edge of the insular shelf, or as otherwise designated by the department; and
- (4) By July 1, 2000, designate areas where the use of gill nets as set nets shall be prohibited.

The department of land and natural resources shall identify the specific areas and restrictions after close consultation and facilitated dialogue with working groups of community members and resource users.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**ACT 307**

H.B. NO. 3553

A Bill for an Act Relating to Forfeiture.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 712A-4, Hawaii Revised Statutes, is amended to read as follows:

“§712A-4 Covered offenses. Offenses for which property is subject to forfeiture under this chapter are:

- (a) All offenses which specifically authorize forfeiture;
- (b) Murder, kidnapping, gambling, criminal property damage, robbery, bribery, extortion, theft, unauthorized entry into motor vehicle, burglary, money laundering,<sup>1</sup> promoting a dangerous, harmful, or detrimental drug, or commercial promotion of marijuana, which is chargeable as a felony offense under state law;
- (c) The manufacture, sale, or distribution of a controlled substance in violation of chapter 329, promoting detrimental drugs or intoxicating compounds, promoting pornography, promoting pornography for minors, or promoting prostitution, which is chargeable as a felony or misdemeanor offense, but not as a petty misdemeanor, under state law; and
- (d) The attempt, conspiracy, solicitation, coercion, or intimidation of another to commit any offense for which property is subject to forfeiture.”

SECTION 2. This Act does not affect the rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**Note**

1. Prior to amendment “trademark counterfeiting” appeared here.

**ACT 308**

H.B. NO. 2680

A Bill for an Act Relating to Student-Centered Schools.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 302A, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§302A- Student-centered schools; mandate to support.** The department, through the board and its superintendent, shall provide information and technical assistance upon request necessary to support the establishment and expansion of student-centered schools.

**§302A- Student-centered schools; administrative supervision.** Whenever any student-centered school is established under section 302A-1123, the following provisions shall apply except as otherwise specifically provided by this chapter:

- (1) Following consultation with the student-centered school, the board of education shall represent the student-centered school in communications with the governor and with the legislature;
- (2) The financial requirements for state funds of the student-centered school shall be submitted through the board of education and included in the budget for the department;
- (3) The approval of all policies and rules adopted by the student-centered school shall be preceded by an open public meeting and shall not be subject to chapter 91;
- (4) The employment, appointment, promotion, transfer, demotion, discharge, and job descriptions of all officers and employees of or under the jurisdiction of the student-centered school shall be determined by the student-centered school and applicable personnel laws and collective bargaining agreements;
- (5) Except as set forth in this section, the board of education or the superintendent of education shall not have the power to supervise or control the student-centered school in the exercise of its functions, duties, and powers.”

SECTION 2. Section 302A-1123, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any public school, up to a total of twenty-five schools, may establish a student-centered school[;], which shall be attached to the board of education for administrative purposes only as specified under section 302A- ; provided that:

- (1) Any public school that establishes a student-centered school shall be exempt from all applicable state laws; except those regarding:
  - (A) Collective bargaining under chapter 89; provided that the exclusive representatives and the employers defined in chapter 89 may enter into agreements that contain cost and noncost items to facilitate decentralized decision-making; and provided further that the exclusive bargaining unit representatives and the local school board of the student-centered school may enter into agreements that contain cost and noncost items; and provided further that the agreements shall be funded from the current allocation or other sources of revenue received by the student-centered school;
  - (B) State procurement laws; and
  - (C) [Religious, racial, or sexual bias,] Discriminatory practices under section 378-2, and health and safety requirements;
- (2) The school establishes a local school board as its governing body composed of, at a minimum, one representative from each of the following participant groups:
  - (A) Principals;
  - (B) Instructional staff members selected by the school instructional staff;
  - (C) Support staff selected by the support staff of the school;
  - (D) Parents of students attending the school selected by the parents of the school;
  - (E) Student body representatives selected by the students of the school; and
  - (F) The community at-large [selected by the board of education];
- (3) The local school board may formulate school-based educational policy and goals in accordance with statewide educational performance standards, adopt school performance standards and assessment mechanisms, monitor school success, and may select the principal as the chief executive officer of the school in accordance with [chapter 89.] paragraph<sup>1</sup> (1)(A). The principal shall consult and work collaboratively with the local school board and have jurisdiction over the internal organization, operation, and management of the school;
- (4) The local school board has developed a detailed implementation plan containing the elements prescribed under subsection (b) for a student-centered school that has been approved by three-fifths of the school’s administrative, support, and teaching personnel, and parents; provided that the school personnel may request their bargaining unit representatives to certify and conduct the elections for their respective bargaining units;
- (5) The detailed implementation plan has been submitted to the board of education for review;
- (6) The detailed implementation plan assures compliance with statewide student performance standards; [and]
- (7) No student-centered [schools] school shall charge tuition[.]; and
- (8) The State shall afford the local school board of any student-centered school the same protections as the State affords to the state board of education.’

SECTION 3. Section 302A-1123, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Student-centered schools shall receive an allocation of state general funds [on a per student basis that is equal to the statewide per pupil expenditure for average daily attendance; provided that] based upon the operational and educational funding requirements of the schools; provided that:

- (1) For fiscal year 1998-1999, the allocation shall be based on a total per pupil expenditure as determined by the legislative auditor; provided that the allocation may be adjusted by the auditor to reflect changes to the department’s budget in the Supplemental Appropriations Act of 1998, H.B. No. 2500,<sup>2</sup> and any appropriation made for collective bargaining agreements; and provided further that a school may negotiate an adjusted allocation in order to have the department of education provide services to the school; and
- (2) Beginning in fiscal year 1999-2000, and every year thereafter, the auditor shall determine the appropriate allocation based on the total department of education general fund appropriation and per pupil expenditure for the previous year; provided that the legislative auditor shall take into consideration any changes to the department’s budget by the legislature and any collective bargaining negotiated amounts;

and provided further that the allocation for self-contained special education students and for other special education students shall be adjusted appropriately to reflect the additional expenses incurred for the students in these programs.”

SECTION 4. Section 302A-1123, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) [The department shall require every student-centered school to] Every student-centered school shall conduct self-evaluations annually. The self-evaluation process shall include but not be limited to the following:

- (1) The identification and adoption of benchmarks to measure and evaluate administrative and instructional programs as provided in this section; [and]
- (2) The identification of any administrative and legal barriers to meeting the benchmarks, as adopted, and recommendations for improvements and modifications to address the barriers; and

[(2)] (3) The impact upon the students of the student-centered school.

Every student-centered school shall submit a report of its self-evaluation to the board of education within sixty days after the completion of the school year; provided that the department shall have thirty days to respond to any recommendation regarding improvements and modifications that would directly impact the department.

The [department] board of education shall evaluate each student-centered school four years after its establishment to assure compliance with [the] statewide student performance standards[.], consistent with subsection (a)(3); provided that each student-centered school established prior to the effective date of this Act shall be evaluated four years after the effective date of this Act. Upon a determination by the board of education that student achievement within a student-centered school does not meet the student performance standards, a student-centered school shall be placed on probationary status and shall have two years to bring student performance into compliance with statewide standards. If a student-centered school fails to meet its probationary requirements, the board of education, upon a two-thirds majority vote, may then deny the continuation of the student-centered school.”

## ACT 309

SECTION 5. Section 302A-1302, Hawaii Revised Statutes, is amended to read as follows:

“[[§302A-1302]] School-based budget flexibility. Beginning with the 1995-1997 fiscal biennium, the department shall implement school-based budget flexibility for schools, complexes, and learning support centers. The flexibility shall be limited to the school-based budgeting program EDN 100 of the department[.] for all schools except student-centered schools defined in section 302A-101; provided that beginning in fiscal year 1998-1999, and every year thereafter, the department shall distribute the full appropriation due to a student-centered school pursuant to section 302A-1123(d) directly to the student-centered school.”

SECTION 6. The revisor of statutes shall substitute the appropriate act number for the references to H.B. No. 2500 in section 3 of this Act.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>3</sup>

SECTION 8. This Act shall take effect on July 1, 1998.

(Approved July 20, 1998.)

### Notes

1. Should be underscored.
2. Act 116.
3. Edited pursuant to HRS §23G-16.5.

## ACT 309

S.B. NO. 2211

A Bill for an Act Relating to Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to prepare Hawaii's public school students to earn a place in the global, electronic marketplace of the future by:

- (1) Requiring all pupils to be progressively competent in the use of computer technology; and
- (2) Requiring the course of study and instruction for the first twelve grades to enable all students to meet progressive standards of competency in a language in addition to English.

SECTION 2. Section 302A-1128, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The department shall regulate the courses of study to be pursued in all grades of public schools and classify them by [such] methods [as] the department deems proper; provided that [the]:

- (1) The course of study and instruction in the first eight grades shall be so regulated that not less than fifty per cent of the study and instruction in each school day is devoted to the oral expression, the written composition, and the spelling of the English language, except for special projects using the Hawaiian language as approved by the board[.];
- (2) All pupils shall be progressively competent in the use of computer technology; and

- (3) The course of study and instruction for the first twelve grades shall enable all students to meet progressive standards of competency in a language in addition to English.

For the purposes of this subsection, the terms “progressively competent in the use of computer technology” and “progressive standards of competency in a language in addition to English” shall be defined by the board through rules adopted pursuant to chapter 91, with reference to relevant national or international standards of competency. Notwithstanding paragraphs (2) and (3) to the contrary, the board, through rules adopted pursuant to chapter 91, shall formulate statewide educational policies allowing the superintendent to exempt certain students from the requirements of paragraphs (2) and (3).”

SECTION 3. The department of education, after consulting with parties involved in public education and after considering relevant national standards, shall develop a plan for the implementation of this Act, including a timetable of when the goals will be reached, and shall submit a copy of the plan to the legislature no later than twenty days prior to the convening of the regular session of 1999.

SECTION 4.<sup>1</sup> This Act shall take effect upon its approval.

(Approved July 20, 1998.)

**Note**

1. No Ramseyer clause.

**ACT 310**

H.B. NO. 2362

A Bill for an Act Relating to Charitable Trusts.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that there is a long-standing tradition, whereby trustees of most charitable trusts serve without compensation. While the legislature considers such voluntary service to be admirable, it believes that trustees of charitable trusts should not be prohibited by statute from receiving compensation. However, trustees who receive compensation from a charitable trust have a fiduciary duty to make sure such compensation is not in excess of what is reasonable under the circumstances. In addition to this common law duty, such trustees are subject to penalty under federal intermediate sanctions law if they allow their compensation to exceed what is reasonable under the circumstances. Knowledgeable and well-intentioned people can differ on what is reasonable compensation in any particular situation, but such controversies are best resolved by a judge who can take into account all relevant circumstances as presented by parties on both sides of the issue. Thus, the purpose of this Act is to codify the duty of trustees not to accept compensation above what is reasonable under the circumstances.

SECTION 2. Section 607-20, Hawaii Revised Statutes, is amended to read as follows:

**“§607-20 Charitable trusts, special provision.** (a) Notwithstanding any other provisions, in the case of [an estate of] a charitable trust, the [commissions] compensation of the trustees shall be limited to [the following schedule of percentages on all moneys received in the nature of revenue or income of the estate, such as rents, interests, and general profits: ten per cent on the first \$1,000; seven per cent on

## ACT 311

the next \$4,000; five per cent on the next \$100,000; three per cent on the next \$100,000; and two per cent on all over \$205,000. This schedule of percentages shall be applied not oftener than once a year. The trustees shall also be entitled to just and reasonable allowances for bookkeeping, clerical, and special services and expenses incidental thereto.] an amount that is reasonable under the circumstances.

(b) This section shall apply [as well to future accounting in existing estates as to new estates.] to existing and new charitable trusts established after the effective date of this Act; provided that any provisions in existing trust agreements regarding trustees compensation shall supersede this section.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on January 1, 1999.

(Approved July 21, 1998.)

## ACT 311

H.B. NO. 2552

A Bill for an Act Relating to Government.

*Be It Enacted by the Legislature of the State of Hawaii:*

### PART I.

SECTION 1. Section 6E-3, Hawaii Revised Statutes, is amended to read as follows:

**“§6E-3 Historic preservation program.** There is established within the department a division to administer a comprehensive historic preservation program, which shall include but not be limited to the following:

- (1) Development of an on-going program of historical, architectural, and archaeological research and development, including surveys, excavations, scientific recording, interpretation, and publications on the State’s historical and cultural resources;
- (2) Acquisition of historic or cultural properties, real or personal, in fee or in any lesser interest, by gift, purchase, condemnation, devise, bequest, land exchange, or other means; preservation, restoration, administration, or transference of the property; and the charging of reasonable admissions to that property;
- (3) Development of a statewide survey and inventory to identify and document historic properties, aviation artifacts, and burial sites, including all those owned by the State and the counties;
- (4) Preparation of information for the Hawaii register of historic places and listing on the national register of historic places;
- (5) Preparation, review, and revisions of a state historic preservation plan, including budget requirements and land use recommendations;
- (6) Application for and receipt of gifts, grants, technical assistance, and other funding from public and private sources for the purposes of this chapter;
- (7) Provision of technical and financial assistance to the counties and public and private agencies involved in historic preservation activities;



- (8) Coordination of activities of the counties in accordance with the state plan for historic preservation;
- (9) Stimulation of public interest in historic preservation, including the development and implementation of interpretive programs for historic properties listed on or eligible for the Hawaii register of historic places;
- (10) Coordination of the evaluation and management of burial sites as provided in section 6E-43;
- (11) Acquisition of burial sites in fee or in any lesser interest, by gift, purchase, condemnation, devise, bequest, land exchange, or other means, to be held in trust;
- (12) Submittal of an annual report to the governor and legislature detailing the accomplishments of the year, recommendations for changes in the state plan or future programs relating to historic preservation, and an accounting of all income, expenditures, and the fund balance of the Hawaii historic preservation special fund;
- (13) Regulation of archaeological activities throughout the State;
- (14) Employment of sufficient professional and technical staff for the purposes of this chapter without regard to chapters 76 and 77;
- (15) The charging of fees to at least partially defray the costs of administering sections 6E-3(13), 6E-8, and 6E-42 of this chapter;
- [(15)] (16) Adoption of rules in accordance with chapter 91, necessary to carry out the purposes of this chapter; and
- [(16)] (17) Development and adoption, in consultation with the office of Hawaiian affairs native historic preservation council, of rules governing permits for access by native Hawaiians and Hawaiians to cultural, historic, and pre-contact sites and monuments.”

SECTION 2. Section 6E-16, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established a Hawaii historic preservation special fund into which shall be deposited the following moneys:

- (1) Appropriations by the legislature to the special fund;
- (2) Gifts, donations, and grants from public agencies and private persons; and
- (3) All proceeds collected by the department derived from historic preserve user fees, historic preserve leases or concession fees, fees charged to carry out the purposes of this chapter, or the sale of goods.

All interest earned or accrued on moneys deposited in the fund shall become part of the fund. The fund shall be administered by the department; provided that the department may contract with a public or private agency to provide the day-to-day management of the fund.”

SECTION 3. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

**“§36-27 Transfers from special funds for central service expenses.**

Except as provided in this section, and notwithstanding any other law to the contrary, from time to time the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special summer school and intersession fund under section 302A-1310;
- (2) School cafeteria special funds of the community colleges and the department of education;

- (3) Special funds of the student housing, summer session, college of continuing education and community service, campus center, Kau‘iokahaloa Iki faculty housing development, and bookstores of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center capital special fund under section 206X-10.5 and the convention center operations special fund under section 206X-10.6;
- (6) Special funds established by section 206E-6;
- (7) Housing loan program revenue bond special fund;
- (8) Housing project bond special fund;
- (9) Aloha Tower fund created by section 206J-17;
- (10) Domestic violence prevention special fund under section 321-1.3;
- (11) Spouse and child abuse special account under section 346-7.5;
- (12) Spouse and child abuse special account under section 601-3.6;
- (13) Funds of the employees’ retirement system created by section 88-109;
- (14) Unemployment compensation fund established under section 383-121;
- (15) Hawaii hurricane relief fund established under chapter 431P;
- (16) The University of Hawaii tuition and fees special fund; [and]
- (17) Division of community hospitals’ special funds; and
- (18) Department of commerce and consumer affairs’ special funds;

shall deduct five per cent of all receipts of all other special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year.”

SECTION 4. Section 92-21, Hawaii Revised Statutes, is amended to read as follows:

“§92-21 Copies of records; other costs and fees. Except as otherwise provided by law, a copy of any government record, including any map, plan, diagram, photograph, photostat, or geographic information system digital data file, which is open to the inspection of the public shall be furnished to any person applying for the same by the public officer having charge or control thereof upon the payment of the reasonable cost of reproducing such copy. The cost of reproducing any government record, except geographic information system digital data, shall not be less than [25] 50 cents per page, sheet, or fraction thereof. The cost of reproducing geographic information system digital data shall be in accordance with rules adopted by the agency having charge or control of that data. Such reproduction cost shall include, but shall not be limited to, labor cost for search and actual time for reproducing, material cost, including electricity cost, equipment cost, including rental cost, cost for certification, and other related costs. All fees shall be paid in by the public officer receiving or collecting the same to the state director of finance, the county director of finance, or to the agency or department by which the officer is employed, as government realizations; provided that fees collected by the public utilities commission pursuant to this section shall be deposited in the public utilities commission special fund established under section 269-33.”

SECTION 5. Section 184-32, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The department shall expend the moneys from the aina hoomalu special fund after July 1, 1992. The funds shall be used for the following purposes:

- (1) Permanent staff positions;
- (2) Planning and development of interpretive programs;
- (3) Construction of interpretive facilities;
- (4) Repairs, replacements, additions, and extensions; [and]
- (5) Operation and maintenance costs of programs[.]; and
- (6) Administrative costs of the division of state parks.”

SECTION 6. Section 302A-405, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The price for the school lunch shall be [set by the department to ensure that moneys received from the sale of the lunches shall be one-third of the cost of preparing the school lunch, rounded to the nearest 25 cents, adjusted during the first year of each fiscal biennium. The price for the school lunch shall be based on the average cost of preparing the school lunch over the three years preceding the second year of the biennium.] no more than \$1 per child; provided that the department by rule shall provide a lower rate or free lunches to children based on their economic need.”

SECTION 7. Section 338-14.5, Hawaii Revised Statutes, is amended to read as follows:

“**§338-14.5 Copies of certificate; fees.** The fees for certified copies of birth, marriage, divorce, or death certificates issued by the department of health shall consist of \$10 for the first copy issued and \$4 for each copy issued thereafter. These fees shall be collected for each single request for certified copies. All fees received for the issuance of certified copies of birth, marriage, divorce, or death certificates shall be remitted to the director of health. Upon the receipt of remittances under this section, the director of health shall deposit:

- (1) \$1 for each certified copy to the credit of the spouse and child abuse special account established under section 346-7.5;
- (2) \$1 for each certified copy to the credit of the spouse and child abuse special account established under section 601-3.6;
- (3) \$1 for each certified copy to the credit of the domestic violence prevention special fund established under section 321-1.3;
- (4) \$1 for each certified copy to the credit of the vital statistics improvement special fund established under section 338-14.6; and
- (5) The remainder of the fee for each certified copy to the credit of the state general fund.”

SECTION 8. Section 572-5, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The department of health shall appoint, and at its pleasure remove, one or more suitable persons as agents authorized to grant marriage licenses under this chapter in each judicial circuit. The agents may issue licenses from any state facility when deemed necessary by the director. Any agent appointed under this subsection and receiving an application for a marriage license shall collect from the applicant for the license [\$25,] \$50, of which the agent, except those provided for in

subsection (b), shall retain ~~[\$8]~~ \$9 for the agent's benefit and compensation and shall remit ~~[\$17]~~ \$41 to the director of health. Upon the receipt of remittances under this subsection, the director of health shall deposit ~~[\$8]~~:

- (1) \$32 for each license issued to the credit of the general fund of the State[, shall deposit];
- (2) \$4.50 for each license issued to the credit of the spouse and child abuse special account established under section 346-7.5[, and shall deposit];  
and
- (3) \$4.50 for each license issued to the credit of the spouse and child abuse special account established under section 601-3.6.

(b) The department may appoint, as regular employees under the civil service and classification laws, the number of suitable persons as agents authorized to grant marriage licenses for whom provision has been made in the general appropriation act. In the case of these agents, the full amount collected from applicants shall be remitted to the director of health. Upon the receipt of remittances under this subsection, the director of health shall deposit ~~[\$16]~~:

- (1) \$41 for each license issued to the credit of the general fund of the State[, shall deposit]
- (2) \$4.50 for each license issued to the credit of the spouse and child abuse special account established under section 346-7.5[, and shall deposit]
- (3) \$4.50 for each license issued to the credit of the spouse and child abuse special account established under section 601-3.6.”

SECTION 9. Section 574-5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The filing fee of ~~[\$50]~~ \$100 shall accompany the petition when submitted and shall not be refundable.”

SECTION 10. Section 846-10.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except for services provided to criminal justice agencies and state or county agencies for employment purposes, the Hawaii criminal justice data center and state and county criminal justice agencies shall assess the following fees for services provided or to be provided, which shall be deposited into the criminal history record improvement revolving fund:

- (1) For each criminal history record name check, conducted by the data center, and other state and county agencies, ~~[\$10;]~~ \$15;
- (2) For each criminal history record name check, via a public access terminal, for which a printout is requested, ~~[\$5]~~ \$10 per printout;
- (3) For each fingerprint-based search of the automated fingerprint identification system or manual fingerprint files, ~~[\$15;]~~ \$25;
- (4) For processing of each application for the expungement of arrest records, ~~[\$15;]~~ \$25;
- (5) For certification of documents, ~~[\$5]~~ \$10 per document;
- (6) For each duplicate expungement certificate requested, ~~[\$10;]~~ \$15; and
- (7) For each complete set of fingerprints taken, ~~[\$10.]~~ \$15.”

SECTION 11. Section 846-23, Hawaii Revised Statutes, is amended to read as follows:

“**§846-23 Rules.** For the purpose of carrying out this part the attorney general, subject to chapter 91, shall prescribe rules having the force and effect of law

including rules assessing reasonable fees for the services provided under this part. The rules shall provide for a waiver of any fee in cases of extreme hardship. Until rules establishing the fees are adopted, the fee for each service provided under this part shall be [\$10,] \$15, which fee may be waived in cases of extreme hardship.”

## PART II.

SECTION 12. The purpose of this Part is to rename the “environmental health program enhancement and education fund” to the “environmental health education fund,” amend its funding and make it permanent.

SECTION 13. Section 321-11.5, Hawaii Revised Statutes, is amended to read as follows:

“**§321-11.5 Establishment of fees.** The department of health, by rules adopted pursuant to chapter 91, may establish reasonable fees for facilities seeking licensure or certification by the department for the issuance or renewal of licenses, permits, variances, and various certificates required by law or by the department’s rules. The fees may include the cost of related examinations, inspections, investigations, and reviews. All fees paid and collected under this section and [sections] section 321-15[, 342F-14, 466J-4, and 466J-5] shall be deposited into the environmental health [program enhancement and] education fund established under section 321-27.”

SECTION 14. Section 321-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Every person holding a license to practice any occupation specified in section 321-13(a)(1) shall reregister with the department of health, in accordance with the rules of the department, before February 1 of each year and shall pay a reregistration fee. The failure, neglect, or refusal of any person holding such a license to reregister or pay the reregistration fee, after thirty days of delinquency, shall constitute a forfeiture of the person’s license; provided that the license shall be restored upon written application therefor together with a payment of all delinquent fees and an additional late reregistration fee that may be established by the director of health. All fees collected pursuant to this section shall be deposited into the environmental health [program enhancement and] education fund established under section 321-27.”

SECTION 15. Section 321-27, Hawaii Revised Statutes, is amended by amending its title and subsections (a) and (b)<sup>1</sup> to read as follows:

“**[§321-27] Environmental health [program enhancement and] education fund.** (a) There is established within the department of health an environmental health [program enhancement and] education fund into which shall be deposited all moneys collected from fees for permits, licenses, inspections, various certificates, variances, investigations, and reviews, pursuant to sections 321-11.5[,] and 321-15[, 342F-14, 466J-4, and 466J-5].

(b) Moneys in the fund shall be expended by the department for the purpose of enhancing the capacity of environmental health programs to:

- (1) Improve public outreach efforts[;] and consultations to industries regulated;
- (2) Educate the public [and], staff[;], and industries regulated thereunder;
- (3) Plan for future growth and expansion to meet emerging needs; and

- (4) Provide training opportunities to ensure the maintenance of professional competence among environmental health staff and administrators.

Not more than \$90,000 of the fund may be utilized during any fiscal year for fund administration, including the hiring of not more than two full-time equivalent personnel, and the purchase of office and electronic equipment.

(c) Any amount in the fund in excess of \$300,000 on June 30 of each year shall be deposited into the general fund.

(d) The department of health shall submit a report to the legislature concerning the status of the environmental health [program enhancement and] education fund, including, but not limited to, the amount of moneys taken in by and expended from the fund, and the sources of receipts and uses of expenditures, not less than twenty days prior to the convening of each regular session.”

SECTION 16. Section 9 of Act 169, Session Laws of Hawaii 1994, as amended by section 10 of Act 143, Session Laws of Hawaii 1995, and as amended by section 1 of Act 164, Session Laws of Hawaii 1996, is amended to read as follows:

“SECTION 9. This Act shall take effect on July 1, 1994 [and shall be repealed on July 1, 2000; provided that:

- (1) Sections 321-11.5, 321-15, 342F-14, 466J-4 and 466J-5, Hawaii Revised Statutes, shall be reenacted in the form in which they read on June 30, 1994;<sup>2</sup>
- (2) The director of health shall transfer to the credit of the state general fund, all unexpended or unencumbered balances remaining in the environmental health program enhancement and education fund, prior to June 30, 2000].”

### PART III.

SECTION 17. The purpose of this Part is to establish the “noise, radiation, and indoor air quality special fund” with moneys collected from fees relating to noise pollution, asbestos, radiation therapists, radiographers, and nuclear medicine technologists.

SECTION 18. Chapter 342P, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

“§342P- **Noise, radiation, and indoor air quality special fund; established.** (a) There is established within the department of health a noise, radiation, and indoor air quality special fund into which shall be deposited all moneys collected from fees for permits, licenses, inspections, certificates, notifications, variances, investigations, and review, pursuant to sections 342F-14, 342P-28, 466J-4, and 466J-5.

- (b) Moneys in the fund shall be expended by the department to:
  - (1) Partially fund the operating costs of the program mandated activities and functions;
  - (2) Fund statewide education, demonstration, and outreach programs;
  - (3) Provide training opportunities to ensure the maintenance of professional competence among staff and administrators; and
  - (4) Plan for future growth and expansion to meet emerging needs.

**§342P- Variances.** (a) Every application for a variance shall be made on a form furnished by the department and shall be accompanied by a complete and detailed description of present conditions, how present conditions do not conform to applicable standards, and any other information that the department may require by rule.

(b) Each application for a variance shall be reviewed by the department. Additional information may be requested by the department for review.

(c) Whenever an application for a variance is approved, the department shall issue a variance authorizing the deviation from established asbestos or lead-based paint hazards standards. No variance shall be granted by the department unless the application and the supporting information clearly show that:

- (1) The continuation of the function or operation involved in the deviation from asbestos or lead standards occurring or proposed to occur by the granting of the variance is in the public interest;
- (2) The authorized variance occurring or proposed to occur does not substantially endanger human health or safety; and
- (3) Compliance with the applicable standards or rules from which a variance is sought would produce serious hardship without equal or greater benefits to the public.

(d) Any variance or renewal of a variance shall be granted within the requirements of this section, and for time periods consistent with the reasons given within the following limitations:

- (1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, control, or abatement of the asbestos or lead involved, it shall be only until the necessary means for prevention, control, or abatement becomes practicable. The variance shall be granted subject to the taking of any substitute or alternate measures that the department may prescribe. No renewal of a variance granted under this subsection shall be allowed without a thorough review of known and available means of preventing, controlling, or abating the asbestos or lead hazards involved;
- (2) The director may issue a variance for a period not exceeding six months; and
- (3) Every variance granted under this section shall include conditions requiring the grantee to perform air or dust sampling and report the results of the sampling to the department.

(e) Any variance granted pursuant to this section may be renewed for periods not exceeding six months on terms and conditions which would be appropriate on initial granting of a variance; provided that the applicant for renewal has met all of the conditions specified in the immediately preceding variance. No renewal shall be granted without an application. Any renewal application shall be made at least sixty days prior to the expiration of the variance. The director shall act on an application for renewal within sixty days of the receipt of the application.

(f) The director may allow a hearing in accordance with chapter 91 in relation to an application for the issuance, renewal, or modification of a variance.

(g) No variance shall be construed to prevent or limit the application of any emergency provision or procedure provided by law.

(h) Any application for a variance may be subject to public participation. The contents of the public notice for a variance application shall include at least:

- (1) The name, address, and phone number of the agency issuing the public notice;
- (2) The name and address of the applicant;

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- (3) A brief description of the applicant's activities or operations which result in asbestos or lead hazards, or other activity described in the variance application;
- (4) A short description of the location of each asbestos or lead-based paint hazard indicating whether the hazard is new or existing;
- (5) A brief description of the public participation procedures, including the comment period, which shall be for a period of not less than thirty days following the date of the public notice, and other means by which interested persons may comment on the variance application and the department's proposed action; and
- (6) The address and phone number of the state agency at which interested persons may obtain further information and may inspect a copy of the variance application and supporting and related documents."

SECTION 19. Section 342F-14, Hawaii Revised Statutes, is amended to read as follows:

**"§342F-14 Fees.** The director may establish reasonable fees for the issuance of permits and variances to cover the cost of issuance thereof and for the implementation and enforcement of the terms and conditions of permits and variances (not including court costs or other costs associated with any formal enforcement action). All fees collected pursuant to this section shall be deposited into the [environmental health program enhancement and education fund established under section 321-27.] noise, radiation, and indoor air quality special fund established pursuant to section 342P-\_\_\_\_\_."

SECTION 20. Section 342P-28, Hawaii Revised Statutes, is amended to read as follows:

**"[[§342P-28]] Fees.** The director may establish reasonable fees for the issuance of notifications, certificates, [and] licenses, permits, and variances to cover the cost of issuance thereof, and for the implementation and enforcement of the terms and conditions of permits[,] and variances not including court costs or other costs associated with any formal enforcement action. The fees shall be deposited to the credit of the [general fund.] noise, radiation, and indoor air quality special fund."

SECTION 21. Section 466J-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

**"(b)** Every person licensed as a radiographer, as a radiation therapist, or as a nuclear medicine technologist shall be subject to a biennial license fee (initial and renewal) payable to the department. The failure of any licensee to pay the licensee's fee shall be grounds for revocation of the licensee's license. All fees collected by the board pursuant to this section shall be deposited into the [environmental health program enhancement and education fund established under section 321-27.] noise, radiation, and indoor air quality special fund established pursuant to section 342P-\_\_\_\_\_.

After July 1, 1998, the license period shall be biennial. The biennial period shall begin thirty days after the end of the licensee's birth month."

SECTION 22. Section 466J-5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:



“(e) The applicant applying for a license to practice as a radiographer, as a radiation therapist, or as a nuclear medicine technologist shall pay a nonrefundable application fee to the department. All fees received by the department pursuant to this section shall be deposited into the [environmental health program enhancement and education fund established under section 321-27;] noise, radiation, and indoor air quality special fund established pursuant to section 342P-\_\_\_\_\_; provided that any other moneys collected pursuant to this chapter shall be deposited with the director of finance to the credit of the general fund, unless otherwise provided by law.”

#### PART IV.

SECTION 23. All acts passed by the legislature during this Regular Session of 1998, whether enacted before or after the effective date of this Act, shall be amended to conform with this Act unless such acts specifically provide that this Act is being amended.

SECTION 24. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>3</sup>

SECTION 25. This Act shall take effect on July 1, 1998.

#### Note

(Became law on July 21, 1998, without the Governor’s signature, pursuant to Art. III, §16, State Constitution.)

#### Notes

1. So in original.
2. Prior to amendment “and” appeared here.
3. Edited pursuant to HRS §23G-16.5.

**COMMITTEE REPORTS  
ON BILLS ENACTED**

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**TABLES SHOWING EFFECT  
OF ACTS**

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**GENERAL INDEX**

## COMMITTEE REPORTS ON BILLS ENACTED

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<sup>1</sup>Floor Amendment Number 5 was adopted as HB2552, HD1, SD3.

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